United States Court of Appeals

for the Second Circuit

APPELLANT'S APPENDIX

B

76-1283

United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket No. 76-1283

UNITED STATES OF AMERICA,

Appellant,

—against—

SECURITY NATIONAL BANK,

Appellee.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

APPENDIX

Volume III—A. 1459 to A. 2190

DAVID G. TRAGER,
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Eastern District of New York.

UNITED STATES COURT OF APPEALS
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SECOND CIRCUIT

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CROSS-EXAMINATION

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BY MR. KATZBERG:

Q Good morning, Mr. Corriss.

A Good morning.

Q Mr. Corriss, we have met before?

A Yes.

Q We met when you testified in the grand jury on February 26, 1975 do you recall that?

A I remember testifying, yes.

Q Now, I want to go back to your initial conversation with Mr. Clifford in December of 1970.

You came to his office and he offered you a raise, is that correct?

A No, he told me that I had been given a raise.

Q That raise would be effective January '71, is that correct?

A I believe that is correct.

Q How much was the raise, sir?

A $5,000.

Q Now, there came a time just a few moments after you were given the $5,000 raise that Mr. Clifford asked you to make political contributions, is that correct?

A I would say within five or ten minutes.

Q He told you you would be responsible for $100

a month?

A He said the normal amount that the officers contributed was $100 a month.

Q You would know who to make your contribution to, Mr. Chadwick would call?

A He said we would receive a call. I don't recall that he mentioned Mr. Chadwick's name but we would be contacted with regard to the person who might be the beneficiary.

Q Do you remember speaking to the FBI on 10/23 --

A Yes.

Q Isn't it a fact you told the FBI in that conversation with Mr. Clifford he told you that -

MR. NAFTALIS: Let him read it.

MR. PATTISON: He may ask.

MR. NAFTALIS: I thought you ruled, your Honor.

THE COURT: Do you remember what you said to the FBI?

THE WITNESS: I have a pretty good recollection. I don't know what they said I said.

Q Look at this and see if you told the FBI that Chadwick would be calling you as to who to make the contributions payable to.

A This is incorrect, sir. Mr. Eagan, who was the

FBI man, I made it plain to him as I tried to to you, I was not positive that the initial person was Mr. Chadwick.

Q With all due respect --

MR. NAFTALIS: Your Honor --

THE WITNESS: I am trying to be honest. I said then and now, just as I said before, it's quite possible it was Chadwick but I cannot say definitely Mr. Chadwick was the person.

Q You are saying when the FBI wrote --

MR. NAFTALIS: Objection, it's not in evidence.

THE COURT: He may ask.

Q You are saying the statement that the FBI as to your interview is wrong when they said --

MR. NAFTALIS: I object.

THE COURT: "Did you tell Mr. Eagan this --" and then read it.

Q Did you tell Mr. Eagan Mr. Clifford mentioned that Arthur Chadwick would contact you and tell you to whom you should make the contributions?

A I did not say Chadwick at that time. I answered the question to Mr. Eagan -- my memory is the same as it is now in that respect -- I don't recall that Mr. Chadwick was the first.

I never said Mr. Clifford mentioned Chadwick,

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he said we woul contacted. If he said Chadwick, I don't recall it. I don't recall Chadwick being the first person. He definitely did contact me or my secretary on a large number of occasions.

If you are asking if that is the man --

Q I am asking you whether or not you told the FBI Mr. Clifford said that Mr. Chadwick would call you?

A I did not say that.

Q That statement in the report is wrong?

A In that respect.

Q You had a specific recollection of not telling that?

A It may well have been Mr. Chadwick, I don't say it was or wasn't. Definitely Mr. Chadwick was the person to whom a large amount of contributions were made and Mr. Clifford did tell me I would be receiving a call.

Q Now, isn't it a fact, sir, that you did not consider it a coincidence that Mr. Clifford in one moment offered you $5,000 and in the next moment asked you to contribute?

MR. NAFTALIS: I object to the form of the question.

THE COURT: The objection is sustained.

MR. KATZBERG: I have a basis in fact for asking.

MR. NAFTALIS: He doesn't have a basis in fact for asking that, it's an argumentative question.

THE COURT: I sustained it.

THE WITNESS: What do you mean?

THE COURT: No answer, new question.

Q Did you consider it a coincidence, sir, that Mr. Clifford in one moment offered you a $5,000 raise and the next moment asked you to make political contributions?

A Not precisely.

Q Do you remember testifying in the grand jury on February 25, 1975?

A I remember being there and testifying.

Q Do you remember these questions and giving these answers, on Page 21:

"Question: Did you consider it coincidental, perhaps, that Mr. Clifford approached the subject of making contributions right after approaching the subject of your raise?

"Answer: What went on in my mind was that perhaps he felt he would have a better opportunity of eliciting a contribution if I didn't feel it as much by taking it out of my present living standards as opposed to out of additional dollars I was receiving.

"Question: So it was your feeling it was not

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coincidence then -- "

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"-- is that not a fact?

"Answer: I just figured that my own judgment was that I certainly would have been invited to make contributions if all the other officers were doing it.

"Question: Was it easier for you to afford the $1,200 a year if you were making $5,000 more?"

MR.COHN: Wait a minute. I object to this.

MR. KATZBERG: Let me read the answer.

MR. COHN: I object.

MR. KATZBERG: "Answer: That's what I tried to tell you, sir."

THE COURT: Did you make those answers to those questions?

THE WITNESS: Yes, that's what I would have answered if asked here.

Q Did you make those answers to those questions at the time?

A Yes.

Q Was it true then?

A Yes.

Q Is it true now?

A In my judgment, yes.

Q Now, thereafter you began to make these political contributions, didn't you?

A Certainly within two months later, after one month.

Q Isn't it a fact you didn't start making the contributions until after you received a raise?

A That is correct. I didn't know about it until then.

Q Didn't you testify that Mr. Clifford told you about the raise in December of 1970?

A That is correct.

Q Look at Exhibit No. 10 for identification, please, and tell us when that record shows you got the $5,000 raise?

A The date here is January 4th of 1971.

Q Isn't it a fact that you did not begin to actually make these contributions ntil after you got the raise?

A That's what I said.

Q I want to show you a batch of checks, sir, it's marked Exhibit 155 for identification.

I want you to look through those checks and tell us if you recognize the contents of that exhibit?

(Pause.)

A Yes sir, these checks are checks that I signed.

Q You wrote those checks pursuant to the contributions organization, is that correct?

A That is correct.

Q Isn't it a further fact that each and every one of the checks were written by you as per Mr. Chadwick's instructions?

A As per his request.

Q I will alter the question in that regard, as per his request?

A Yes.

Q To Democrats and Republicans?

A Yes.

Q Did you ever choose an organization receiving this money?

A No, the names were mentioned to me

Q Did you follow Mr. Chadwick's requests as to the amounts, sir?

A Some were 50, some were 100, a couple were 200.

Q Whatever he said you wrote out?

A Yes.

Q Thank you.

With respect to this meeting with the lawyers, you don't remember who the lawyer was --

MR. NAFTALIS: Objection. That is not his testimony. He said --

THE COURT: Don't tell us what the testimony is. Ask the question.

MR. KATZBERG: May I continue?

THE COURT: Yes. But don't add anything into the question.

Q It was either Mr. Hagan or Mr. Degenaro?

A Yes.

Q Who else was --

A I don't recall. I know other people from the bank were present but I can't do better than that.

Q To the best of your knowledge, you knew -- withdrawn.

Did you ever know that other members of the bank were being compensated with salary increases for the contributions?

A No sir, not until after I spoke to the FBI and I was in the parking lot in Huntington.

Q That was in 1974, sir?

A It was the day -- I believe it was '74. It was the precise date I returned from speaking with two FBI agents.

Q 10/23/74?

A That is the day.

Q That was the very first time you had any knowledge anybody was given salary increases to pay for the contributions, is that correct?

A Yes.

Q In other words, there was no discussion when this lawyer made whatever statement he made that people were being paid for it?

A No.

Q In fact, the discussion was that the money for these contributions was coming out of each individual club member's pocket, isn't that correct?

A Yes.

Q And completely voluntary on everybody's part, is that correct?

A Yes.

MR. KATZBERG: Thank you.

(Pause.)

Q Now, I want to direct your attention to the time you spoke to the FBI, October 23rd, 1974.

THE COURT: Can we take a recess at this point?

MR. KATZBERG: I may have five more minutes, your Honor.

THE COURT: All right.

Q Do you remember that, sir?

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A Yes.

THE COURT: I have been out here an hour and a half.

MR. KATZBERG: Five more minutes.

Q Isn't it a fact right after you spoke to the FBI you spoke to Mr. Clifford?

A Yes.

Q You reported to him?

A Yes, that is correct.

Q Isn't it a fact you told the FBI in your interview that Mr. Clifford was the one who introduced you into the club?

A Yes. I didn't use the word club, who was soliciting our contributions.

Q Isn't it a fact you then told Mr. Clifford that you had told the FBI he was the one who invited you to make these contributions, isn't that correct?

A Yes.

Q Isn't it a further fact that when you told Mr. Clifford that you told the FBI he was the one, he denied that?

A That is correct.

Q Isn't it further a fact that Mr. Clifford at that time told you "I don't recall ever having met with you,

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it couldn't have been me"?

A Yes.

Q What did you say?

A He definitely was wrong, I recall it vividly. Mr. Lowe was present and he may have forgotten it. There was absolutely no question in my mind that's the way it was.

Q Even after you reminded him of Mr. Lowe's presence, isn't it further a fact that Mr. Clifford said he still had no recollection and he doubted very much it was him?

A That's what he told me.

MR. KATZBERG: Thank you.

May I have a moment, your Honor?

THE COURT: Yes.

MR. KATZBERG: Thank you.

(Pause.)

MR. KATZBERG: I have nothing further, your Honor.

MR. COHN: Your Honor, if Mr. Naftalis has questions and I have questions, maybe we should take a recess at this time.

THE COURT: Yes.

(A recess was taken at this time.)

(Continued next page.)

MR. KATZBERG: I want to offer the checks in evidence before the redirect.

THE COURT: The jury is coming in.

(The jury is in the jury box.)

THE COURT: We are ready to start now.

MR. KATZBERG: I have an offer to make at side bar.

(The following took place at side bar.)

MR. KATZBERG: The Government would at this time move into evidence Mr. Corriss' checks --

MR. BANNIGAN: On what theory? What relevancy does it have?

MR. PATTISON: Question of fact whether or not this was part of the club --

MR. BANNIGAN: Your Honor --

MR. PATTISON: It was his own word, it was not mere chance that the raise and the offer into the club happened to come at the same time.

MR. NAFTALIS: I must be in a different Courtroom.

MR. KATZBERG: He confirmed his grand jury statement.

He didn't begin to contribute until after the raise.

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MR. NAFTALIS: It's a joke trying to connect --

THE COURT: They are contributions made to political --

MR. BANNIGAN: It was his own money.

THE COURT: It's not being offered for the purpose --

MR.BANNIGAN: I would like to know why it is being offered.

THE COURT: To show he used checks from the account to pay for political contributions.

MR. BANNIGAN: If it's his money, it's not relevant.

THE COURT: It's up to the jury.

MR. BANNIGAN: I submit these are offered in an effort to uphold the admission of that chart (indicating) in evidence.

MR. PATTISON: Absolutely not.

THE COURT: I see no harm to it, it's already before the jury.

(The following took place in open Court.)

MR. KATZBERG: At this time the Government would move the admission of Mr. Corriss' checks, No. 155 for identification, into evidence.

THE COURT: They will be admitted.

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Mr. Cohn?

MR. COHN: I have no objection to the checks, Judge.

May I ask a few questions?

THE COURT: Yes.

REDIRECT EXAMINATION

BY MR. COHN:

Q Mr. Corriss, the Government just moved for the admission of your checks into evidence and they are in now.

Did I understand you to say this was a joint account that you had with your wife?

A Yes.

Q Your wife has a right to sign checks on this account?

A Definitely.

Q The same as you?

A Yes.

Q Did she have to come to you for permission?

A No, usually I had to go to her.

Q Welcome to the club.

Mr. Corriss, do I understand you would get your pay, your salary from the bank, and it would go into this joint account?

A Yes.

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Q You used the money to pay your living expenses?

A Yes.

Q The checks you drew also came out of that account?

A Yes.

Q If your wife wanted to write a check for a dress, she would draw it against this account?

A Yes.

Q The account in which your salary went?

A Yes.

Q I would like to go back to the conversation you had with Mr. Clifford that you were cross-examined about by Mr. Katzberg.

Was anything said at that time about your right to stop making these contributions at any time you pleased?

A You are talking about the original conversation?

Q That's right.

A In, I believe it was late December or certainly January --

Q Whatever it was.

A Yes, Mr. Clifford made it very clear, I believe he said two or three times, it was purely voluntary and there would be no recriminations or actions taken. It was definitely my opinion that here was an officer in a bank where the

organization was asked to be competitive and the senior officers were stepping into the breach whereas in other banks collections were made from everybody or other than senior officers.

Q Mr. Clifford told you at that time that at any time you wanted to terminate the contributions you could do that?

A Yes.

Q You told that to the FBI?

A Yes.

Q As a matter of fact, I believe it was also developed on cross-examination that you had spoken to Mr. Katzberg. On how many occasions prior to coming here today did you speak to Mr. Katzberg?

A We had a conversation when I was in the grand jury. I believe I spoke to him prior to that and I spoke to him about a month ago approximately when I was subpoenaed to come up prior tothis appearance anticipating that I would be called by the Government.

Q You were subpoenaed by Mr. Katzberg to come up and testify as a Government witness, is that what you are telling us?

A Yes.

Q Mr. Katzberg never called you?

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MR. PATTISON: Your Honor, I object.

THE COURT: Are you objecting to that?

MR. PATTISON: Yes.

THE COURT: In any event, the subpoena itself doesn't make him anyone's witness, either side has a right to call any witness in the case.

MR. COHN: I gather I can't ask the question?

THE COURT: Yes.

MR. COHN: In that case I withdraw the question.

Q I also remember when Mr. Katzberg questioned you this morning he asked you about people you talked to after you had been examined by the FBI, is that correct?

A Yes.

Q Did you talk to anybody besides Mr. Clifford and the FBI after that time?

A Well, I spoke with the FBI.

Q All right.

A And the FBI told me when I was meeting the two gentlemen --

Q Did you talk to anybody besides the FBI after that time?

A Yes, I spoke to Judge McDonald.

Q Who is Judge McDonald?

A He is an attorney associated with the firm of

Shea, Gould, Clemenco.

Q When did you talk to Judge McDonald in relation to your interview by the FBI?

A It was either the day that I returned from the FBI or the morning following, sir.

Q I see.

Do I understand there came a time you were examined and interviewed by the FBI? Is that correct?

A Yes.

Q Then there came a time either that afternoon or the following morning you were in Judge McDonald's office?

A No, I spoke with him by phone.

Q By phone?

A Yes.

Q I see.

Did he ask you about the questions that the FBI put to you?

MR. PATTISON: I object, your Honor.

MR. NAFTALIS: On what ground --

THE COURT: Let me hear the question.

(Whereupon, the last question was read by the Reporter.)

MR. COHN: He developed the whole FBI interview and read questions and I think this relates to

the FBI --

THE COURT: That is not the problem. If he says yes, Judge McDonald may have asked, he can't say what he said to Judge McDonald.

MR. COHN: I am not going to go into that.

(Continued next page.)

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BY MR. COHN:

Q In other word, you had a conversation with Judge McDonald concerning the FBI interview; isn't that right?

A Yes, sir.

Q This was on the telephone?

A Yes, sir.

Q And Judge McDonald is one of the partners in the Shea, Gallop firm; isn't that right?

A I believe he's a partner, sir.

Q You believe?

A I don't know that for certain. I'm quite sure but I'm not positive.

Q But in any event, you know that he has some association with Mr. Shea and Mr. DeGenaro; is that right?

A Yes.

Q It was immediately after you spoke to the FBI that Mr. or Judge McDonald -- incidentally, he's a retired judge, and we call him that out of respect.

Q Yes.

Q And Judge McDonald then spoke to you on the telephone either that afternoon or the next morning; is that right?

A That's correct.

Q And did there come a time when you saw Mr. -- Judge McDonald in person?

A Yes. It was some time later, though, sir.

Q Some time later?

A Some time later.

Q And was this in Mr. Shea's office?

A I'm not sure, sir. I did see him in person but I think it was Shea's office but I am not positive.

Q And again, without disclosing what the conversation was, did the conversation relate to the matters that you were questioned by the FBI about?

A Yes, sir.

Q And that's the matters that were involved with in this trial; isn't that right?

A I understand that to be so, sir.

Q Now, didn't you also talk to Judge McDonald before you went into the Grand Jury?

Do you remember that?

A Yes.

Q And that conversation related to a subpoena that you had received to appear before the Grand Jury; isn't that right?

A Yes, that's correct.

Q And Judge Mcdonald tell you to report back to him after you went to the Grand Jury?

A He asked if I would advise him of what transpired.

Q And did you do that?

A I believe I did, yes.

Q So, in other words, Judge McDonald of Mr. Shea's office was kept fully informed as to what you told the FBI and what you testified to before the Grand Jury?

A To the best of my ability.

Q You didn't hold anything back from him, did you?

A No, sir.

Q Do you have any knowledge as to whether or not other officers or employees of the bank were similarly questioned or debriefed by Judge McDonald with respect to their Grand Jury testimony in this matter?

A I have no direct knowledge, but one or two people did indicate to me that they would be advising him of what transpired.

Q In the same manner that you advised Judge McDonald?

A We didn't get into that sort of detail, sir,

but I can only presume that was the essence of the arrangement.

MR. PATTISON: I object, your Honor.

THE COURT: You object to that?

MR. PATTISON: Yes.

THE COURT: The balance of it. All right.

MR. PATTISON: Assumptions.

THE COURT: Yes.

MR. BANNIGAN: Strike the word, your Honor.

MR. COHN: Judge, I don't have any other questions of this witness.

THE COURT: All right. Anyone else?

MR. NAFTALIS: Yes. I just have a couple, your Honor.

REDIRECT EXAMINATION

BY MR. NAFTALIS:

Q Mr. Corriss, you received a raise at the start of 1971, that was your annual raise?

A That's correct.

Q That was $5,000?

A that's correct.

Q And that brought your salary up to a total of what?

A Forty.

Q Was that more or less than you had been earning in the bank before?

A Less. In the other bank.

Q In the other bank.

What kinds of tasks -- first of all, what was your title in the bank?

A Senior vice-president.

Q And how does that stand in the hierarch of the bank?

A I would say I was one of the top five or six people in the bank.

Q And what kind of responsibilities did you have during the years 1970, '71 and '72 and '73 and '74?

A In the early part, sir, the total lending function was immediately under the supervision of the president of the bank, Martin Travers.

Of course, Mr. Clifford oversaw it all with the board and the total lending function in the bank was divided between Mr. Lowe and myself, with regard to the commercial loan area.

Q And what was your lending limit on your own signature that you could loan any individual or corporation?

A I believe at that time it was a half a million dollars, and not too far later it was increased to a million and a half, as far as unsecured loans were concerned, without collateral.

There, then shortly thereafter, there came a time when either Mr. Lowe or I together, with either the chairman or the president could go to the legal limit of the bank.

Q Was it ever your opinion that any raise you received at the bank was out of line with the position, and responsibilities, that you held at the bank?

A I always felt I was underpaid.

Q Now, Mr. Katzberg asked you a question about the time that you had a conversation with Pat Clifford around the time you telephoned the FBI; is that correct?

A I spoke with him before going to the FBI.

I received a subpoena and it is normal to be sure that the chairman -- it's standard rules within the bank to advise the chairman and bank counsel when a subpoena is served on the bank or an officer of the bank. And I advised him that I had received a subpoena and I would be going to the FBI with all my records and waiver of immunity and telling them.

Q During your course of conversations with

Pat, Pat told you to tell the truth?

A Yes.

MR. KATZBERG: I object to the leading nature of the question.

MR. NAFTALIS: Redirect.

THE COURT: It is still leading. It is your witness.

Q What did Mr. Clifford say, if anything, about whether or not you should tell the truth?

MR. KATZBERG: Objection to the same -- same basis.

THE COURT: Still leading.

MR. KATZBERG: Putting words in the witness' mouth.

MR. NAFTALIS: Your Honor, I move to strike Mr. Katzberg's remarks. He's and expert on that subject.

THE COURT: All right. I think both of you at this point -- go ahead.

THE WITNESS: Mr. Clifford agreed that it was proper for me to waive immunity. I believe he told me I was entitled to counsel.

My comment to him is an honest man doesn't need counsel. I was going to tell the truth and

give my records.

He said: By all means, tell the truth.

BY MR. NAFTALIS:

Q Now, then you went down to the FBI AND YOU TOLD THE FBI about your meeting with Pat Clifford in December of January of 1972?

A Yes, that's true.

Q And you later told the Grand Jury about that same meeting?

A Yes, I did.

Q Abd you later testified in this Courtroom about that same meeting, the same manner as you told the FBI and the Grand Jury?

A Yes.

Q And is it not a fact that later Mr. Clifford told you that --

MR. KATZBERG: Objection. Leading.

MR. PATTISON: Objection.

THE COURT: Yes. It is leading.

MR. NAFTALIS: One second, your Honor.

THE COURT: Yes.

Q Just a couple of more questions, Mr. Corriss.

Prior to your coming to the Security National Bank, have you ever been involved in political contributions

program in any other banks?

A Yes. A 1487

Q Which banks?

A Well, the Chemical Bank, there was a fund for better government in which all officers and employees were solicited. It was voluntary.

Everyone from clerks on up were asked. The dollar amounts were smaller to the best of my knowledge.

And in the Western Pennsylvania National Bank there was a scale. The senior vice-presidents would be expected to support the bank's needs at a higher level than the vice-president and they would be at a higher level than assistant vice-president on down.

Q And to your knowledge, was the program at the Western Pennsylvania National Bank in which the vice-presidents and the others were expected to contribute, was that cleared by counsel?

A Yes, it was.

MR. NAFTALIS: I have nothing else.

MR. COHN: Judge, before Mr. Katzberg rises, I forgot one question. May I have your permission to ask it?

THE COURT: All right.

REDIRECT EXAMINATION

BY MR. COHN (Cont'd):

Q Mr.Corriss, when you're talking about the checks in the joint account, there came a time, I know, that you stopped writing checks; is that right?

A Yes, sir. The afternoon when the FBI --

Q You stopped writing the checks; right?

A That's right.

Q Okay.

Anybody ever take any part of your raise away from you?

A No.

Q Anybody ask you after that to give back any part of your salary?

A No.

Q Did they cut your salary after that?

A No.

MR. COHN: Thank you very much.

MR. NAFTALIS: I have one on that line.

REDIRECT EXAMINATION

BY MR. NAFTALIS (Cont'd):

Q After you stopped contributing, did you inform Pat Clifford of that fact?

A Yes, I told my secretary to tell Chadwick first,

and I told Clifford that I had stopped.

I had some cause to question based on what the FBI told me.

Q I don't want to go into what the FBI told you during the investigation.

When you told Pat Clifford that you were going to stop contributing, what did Pat say?

A Okay.

MR. KATZBERG: Ready?

THE COURT: Ready.

RECROSS-EXAMINATION

BY MR. KATZBERG:

Q These other banks that you testified to, to your knowledge, did any officers ever receive salary increases for the purpose of making those contributions?

MR. COHN: Judge, I'm going to object to that. That's an issue dor the Jury to decide and Mr. Katzberg constantly refers to it and I think he should be instructed by the Court to refrain from asking questions along that line.

That's the whole issue in the case.

MR. PATTISON: Perfectly proper cross.

THE COURT: He can ask the question and raise whatever fact or inference they may wish

o draw from the answer.

Go ahead.

THE WITNESS: I am not aware of any such situation.

BY MR. KATZBERG:

Q Thank you, sir.

By the way, how long were you at the Security National Bank when Mr. Clifford offered you the $5,000 raise in December of 1970?

A the board gave me a r ise after I was there five months.

MR. KATZBERG: Thank you, sir.

Nothing further.

MR. BANNIGAN: I have one or two, your Honor.

CROSS-EXAMINATION

BY MR. BANNIGAN:

Q Mr. Corriss, my name is Eugene Bannigan from the firm of Lord, Day & Lord.

In these other banks that Mr. Katzberg is so interested in, what they did --

MR. KATZBERG: Objecti .

MR. BANNIGAN: I'm sorry. I withdraw that.

THE COURT: It is unnecessary. Absolutely unnecessary.

MR. BANNIGAN: I withdraw it.

THE COURT: There is nothing greater.

MR. KATZBERG: Other defense counsel brought --

THE COURT: Nothing greater than the shoe being on the right foot but it is wrong when it's on the other fellow's foot.

I don't understand that. Neither side can do that during the trial, Government or defense.

We are not trying lawyers.

BY MR. BANNIGAN:

Q In theee other banks, sir, when people -- you said that there was a sort of layered system as to how much one would contribute, and I take it, sir, in the bank, would it be fair to say that when a person moved from assistant vice-president to a vice-president, he got a raise generally?

A I would say generally that's true, that's correct.

Q All right. Then since he went from one level to another level, he was required to pay a little more into the club; wouldn't that be fair to say?

A Let's say he was called upon. I don't think I used the word "required," because there, too, they were voluntary.

Q He was called upon to pay more?

A He would move into a different plateau.

Q Because his salary and position increased?

A That's correct.

MR. BANNIGAN: Thank you.

THE COURT: All right. You may step down.

THE WITNESS: Thank you.

(Witness excused.)

THE COURT: Next witness.

...

(Continued on next page.)

until the jury finishes?

THE COURT: We can do the preliminaries, then we will wait.

MR. NAFTALIS: I am sorry.

THE COURT: What witness do you have?

MR. NAFTALIS: Do you want me to call a witness?

THE COURT: Yes.

MR. NAFTALIS: Mr. Clifford calls Roger Lew as the first witness.

R O G E R A. LEW , called as a witness in behalf of the defendant Clifford, having been duly sworn by the Clerk of the Court, testified as follows:

THE COURT: All right.

DIRECT EXAMINATION

BY MR. NAFTALIS:

Q Mr. Lew, will you try and keep your voice up so all the ladies and gentlemen of the jury, even those at the very end back where I am can hear what you say.

Mr. Lews, what is your present occupation?

A I am vice president of the Sharon Steel Corporation.

Q And what does Sharon Steel Corporation do?

A We are producers of basic steel and semi-finished steel and finished steel products.

Q And how long have you been with the Sharon Steel Corporation?

A About a year and two months.

Q And prior to being at the Sharon Steel Corporation, by whom were you employed?

A Security National Bank.

Q And when did you first come to be employed by the Security National Bank?

A In March of '66.

Q And until when were you employed by the Security, about, approximately what date did you leave?

A Until the end of January 1975.

Q Now, could you tell us, sir, what positions you held in the Security National Bank during the years you were there, including the position you were at the time you resigned from the Security National Bank to become vice president of Sharon Steel.

A I started as an assistant manager of the junior loan officers in '66 and when I left I had worked up through the ranks to the position of senior vice president.

Q And what was your area of specialization at the Security National Bank?

A Customers' lending.

Q Was that an area you worked throughout more or less your entire career at Security?

A That is correct.

Q Now, did you know Mr. Clifford before you came to the Security National Bank?

A Yes, I did.

Q Did you work at the Franklin National Bank?

A Yes.

Q And were you one of the people that Pat Clifford included to bring over to Security?

A Yes.

Q I want to direct your attention to the latter part of 1967 or the early part of 1968, and I want to ask you, sir, did there ever come a time when you were present at any conversation between Mr. David Dowd and Mr. Patrick Clifford on the subject of political contributions?

A Yes, I was.

Q And can you tell us where that conversation took place?

A That was in Mr. Clifford's office.

Q Will you keep you voice up, I can't hear you, sir.

A That was in Mr. Clifford's office.

Q And can you tell us what was said and what happened?

A Well, Mr. Clifford and I were sitting in his office and Mr. Dowd came into the office and said that he had

just had a conversation with Mr. DeGenaro at the law firm and that Mr. DeGenaro had approved the political contributions plan, which plan was that the officers of the bank could make political contributions and the bank could give the officers salary increases because it was the bank's right to pay our officers any salary they wanted to;

and also that it had to be entirely voluntary and that if an officer of the bank agreed to make contributions and then elected not to make contributions at a later time, that salary could not be rescinded.

(Continued on next page)

Q Now, who did this talking that you just quoted?

A Mr. Dowd.

Q Was he quoting anybody else?

A Yes, this is what he said that Mr. DeGenaro had told him.

Q What did Mr. Clifford say?

A Mr. Clifford said, "Fine, as long as he approved it, let's go."

Q Now, did there come a time subsequently when you yourself, Mr. Lew, became a participant in any political donations program at the Security National Bank?

A Yes, there did.

Q And do you recall what year that was?

A That was in '71, early '71.

Q And did you have a conversation with anyone at that time about your own participation?

A Yes, I had a conversation with Mr. Dowd.

Q What did David Dowd say to you and what did you say to him?

A He asked me if I would be willing to join the club for the purpose of giving political contributions or donations, and I said I would.

Q And was your participation in the political donations program of the Security National Bank voluntarily?

A Yes, sir, oh, yes, sir.

Q Did you think you had a choice to refuse?

A Yes, yes.

Q Were you offered any raise or any compensation to compensate you for making contributions?

A No.

Q Were you aware that other people in the bank had been offered raises?

A Yes, I was.

Q And what did you understand to be the purpose of making these donations?

A It was to help the bank and the shareholders and we had to do it because all the other banks were doing it.

MR. PATTISON: Objection, your Honor.

I move to strike that.

THE COURT: Yes.

The balance of it strike out, let the first part remain.

BY MR. NAFTALIS:

Q Did you ever attend any of these dinners?

A Yes, I did.

Q And did you go to these dinners to elect any particular candidates?

A No --

MR. PATTISON: Objection.

THE COURT: It doesn't follow, it is a non sequitur.

MR. NAFTALIS: Do you want me to rephrase it?

THE COURT: Yes.

Q Did you go to the dinners for the purpose of influencing the election of any candidate to office or did you go for any other purposes?

MR. KATZBERG: Same objection.

THE COURT: I will allow it.

THE WITNESS: Could you, I'm sorry, could you rephrase that?

MR. KATZBERG: Your Honor, the witness is being asked to give the operation of his mind, not what was said or what was done. This is direct examination.

THE COURT: Go ahead.

BY MR. NAFTALIS:

Q Can you tell us what the purpose was of you and the other officers going to these dinners?

MR. KATZBERG: Objection, your Honor.

MR. PATTISON: Objection.

MR. NAFTALIS: That is the issue in this case, that is the reason why --

MR. PATTISON: Absolutely not.

THE COURT: That is not the only issue in this case, it can be a number of things.

MR. NAFTALIS: Most respectfully, your Honor, I won't argue the law now but I would respectfully submit that the intent by which these people did things is obviously highly relevant in this matter.

MR. PATTISON: I object, your Honor, it is not quite accurate.

MR. NAFTALIS: Your Honor, Mr. Pattison makes statements of law which are not accurate, and I don't want him to do it right in front of the jury.

MR. RYAN: I object to the colloquy.

MR. NAFTALIS: Thank you, Mr. Ryan.

BY MR. NAFTALIS:

Q Can you tell us, sir, whether you went to these dinners.

MR. KATZBERG: Same objection.

THE COURT: The question is bad, they are operation of mind questions.

MR. NAFTALIS: All right.

THE COURT: Why are purpose questions and they are bad.

You are asking a question but you can't phrase it that way.

MR. NAFTALIS: I will drop it, it is not that important.

THE COURT: I am not telling you to drop it, I'm just telling you that you cannot do it that way.

BY MR. NAFTALIS:

Q Did you ever have any conversations as to why you went to these dinners was because you wanted any candidate in particular to be elected?

MR. PATTISON: It is the same thing, objection.

THE COURT: When you attended these dinners, did you go to the dinners as a political function or did you go on behalf of the bank?

THE WITNESS: On behalf of the bank.

THE COURT: And at the time you attended these dinners on behalf of the bank, did you do anything while you were there?

THE WITNESS: Yes.

THE COURT: What did you do?

THE WITNESS: I had a few drinks and we ate and we visited with people, made con cts that way.

THE COURT: You made contacts?

THE WITNESS: Yes.

THE COURT: All right.

As to these contacts, were these contacts with

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reference to your work or were they with reference to your social life at that moment?

THE WITNESS: Both.

THE COURT: Both, okay.

Did you have to report back to anyway about your contacts which you made at these affairs?

THE WITNESS: No.

THE COURT: You may take it from there. Mr.

MR. NAFTALIS: Thank you, your Honor, thank you. I appreciate it.

BY MR. NAFTALIS:

Q Now, sir, did you regard the donations program at the Security National Bank as any kind of secret or confidential matter?

A No.

Q Did you ever tell customers of the bank about it?

A Yes.

Q How did that come about?

A Well, on occasion, on a number of occasions, I was asked by certain of mycustomers --

MR. KATZBERG: Objection to the hearsay, your Honor.

THE COURT: I will let him answer.

Go ahead, you may answer it.

What happened on occasions?

A On certain occasions a customer would ask me to make a political contribution --

Q Say it loud enough so the jury hears it as well.

A On certain occasions a customer would call me up and say, "I would like you to make a political contribution."

And I would just say, "Uh hum, I am making contributions in my own way and we have a plan here at the bank."

You know, I would defer, I wouldn't do it.

Q Now do you know a man named William Shea?

A Yes.

Q And did Mr. Shea have any position at the Security National Bank?

A Yes, sir, he was a director.

Q And did he have any other position besides being a director?

A Well, he was, he was on the executive committee and I believe he was a member of the auditing committee or the chairman, I am not sure whether he was a member or chairman.

Q And his law firm also played a role regarding the bank?

A Yes sir, the law firm was our general counsel.

Q And based upon your own personal knowledge, were you aware of whether or not Mr. Clifford ever sought Mr. Shea's counsel on important matters affecting the bank?

A Oh, yes, he did, many times.

Q Now, you mentioned the executive committee of the bank, what was the executive committee of the bank that Mr. Shea was on?

A Well, towards the end of '73 and I guess through '74, the executive committee had a large part in running the bank, handling loans and making major decisions and such.

Q Was that a change as to the way the bank was run prior to the end of '73?

A There was a change, it represented a change, I am not sure about the time when the timing was, but it did represent a big change.

(Continued on next page)

Q Forget whatever the time was, that represented a change as to who made policy decisions affecting the bank?

A Yes, it did.

Q And the policy decision making, at least in part, was transferred --

MR. KATZBERG: Objection, your Honor, he is leading him, why doesn't he ask him.

Q To whom was the policy making decisions transferred to, who got it?

A To a large extent it went from Pat Clifford to the Executive Committee.

Q You say to a large extent it went --

MR. KATZBERG: What time do we have?

MR. NAFTALIS: We have late '73 to '74.

BY MR. NAFTALIS:

Q Now, you indicated -- would you indicate again what your personal area of work in the bank was?

A Commercial lending.

Q And during the years that you were at the Security National Bank, did you work with Mr. Clifford in the area of commercial lending?

A Yes, I did.

Q And can you tell us whether or not that is an area governed by many rules and laws and regulations?

A Oh, yes, very much so.

Q And did you have occasion during those years that you worked for Pat Clifford to learn what his practice was regarding compliance by the bank and its officers with the various laws and rules and regulations that govern the bank in its business activities?

A Yes, I did.

Q What was that, sir?

A He was pretty much a stickler for following what the laws and rules were. We had, we had instructions that at any time there was any question as to a law or regulation of the Federal Reserve or of the Comptroller of the Currency or the State law or commercial law, we had to see counsel.

Q Now, are you aware of whether or not officers who were requested to become participants in the political donations program refused?

A I am aware of some, yes.

Q And do you recall the names of any?

A Two.

Q Who were they?

A Michael Pavlicas and Tony, I guess it is Anthony, Sisti.

Q And to your own knowledge, was Mr. Sisti's and Mr. Pavlicas' careers in any way harmed in the bank?

MR. PATTISON: I object to the question, I object to the form.

THE COURT: Yes.

Q What if anything happened to their careers in the bank after they refused to contribute?

A Nothing, they both did pretty well.

MR. NAFTALIS: Can I have just one second, your Honor?

THE COURT: Yes.

BY MR. NAFTALIS:

Q Sir, do you know a man by the name of Joseph Stefan?

A Yes, I do.

Q Who was or is Mr. Stefan?

A Mr. Stefan was the Executive Vice President of the bank.

Q Did you ever hear anything of or did anything ever come to your attention at any time while you were at the Security National Bank of any kind of a blacklist?

A No.

In the bank?

Q Yes.

A No.

Q There is testimony in this case that Mr. Stefan

told another person that there was such a list.

Does that in any way change your testimony?

A No, I don't think so, I don't think there was ever a blacklist.

Q You don't agree with the statement?

MR. PATTISON: Objection.

MR. KATZBERG: Objection.

It is his knowledge.

THE COURT: All right, it is his knowledge.

All right.

THE WITNESS: Am I supposed to answer it?

THE COURT: No.

MR. NAFTALIS: Excuse me.

I have nothing else, your Honor.

MR. COHN: Your Honor?

THE COURT: You may examine.

CROSS-EXAMINATION

BY MR. COHN:

Q Mr. Lew, my name is Irving Cohn, I am David Dowd's lawyer.

Mr. Lew, until today have you or I ever met?

A No, sir.

Q Have you or I ever spoken to each other?

A No.

Q I want to take you back to the time that you and Mr. Clifford were together in an office and David Dowd came in. Is it your testimony that he told you and Mr. Clifford that he had just had a conversation with Mr. DeGennaro?

A Yes.

MR. KATZBERG: May we have the date, your Honor?

THE COURT: Wait, wait.

MR. KATZBERG: May we have the date fixed?

BY MR. COHN:

Q What was your testimony, '67, late '67?

A It was either late '67 or early '68, I don't recall the exact date.

Q That is your best recollection; is that correct?

A Yes.

Q Did you know at that time who Mr. DeGennaro was?

A Oh, yes, sure.

Q And did you know at that time that Mr. DeGennaro was a lawyer employed in the Shea law firm?

A Of course.

Q And had you had occasion to talk to Mr. DeGennaro prior to that time?

A I'm sure I did, yes.

Q Seek his legal advice?

A Yes.

Q And you had told us in response to a question put to you by Mr. Naftalis that your instructions from Mr. Clifford were that any questions of law that would arise you were to seek advice of counsel; is that correct, sir?

A That is correct.

Q And was Mr. DeGennaro one of the counsel that you were instructed to seek advice from?

A That is correct.

Q And when Mr. Dowd came in and told you that he had this telephone conversation with Mr. DeGennaro and Mr. DeGennaro made certain approvals -- is that correct, sir?

A That is correct.

Q And he approved a plan where officers can receive salary increases?

A That is right.

Q And that these salary increases were conditioned that they had to be permanent; is that correct, sir?

A Right.

Q And that once the salary increase was given, it could not be taken away?

MR. PATTISON: I object to this, your Honor.

MR. COHN: This is cross-examination.

THE COURT: Even on cross-examination you cannot lead him, you have to ask him the questions.

MR. COHN: All right.

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Q Did Mr. Dowd --

THE COURT: Well, what about the salary increases?

MR. COHN: I am sorry.

THE COURT: I know you know better.

MR. COHN: I apologize, Judge.

I withdraw the question.

Q Did Mr. Dowd tell you and Mr. Clifford at that time, at that time that Mr. DeGennaro said that if a salary increase was given to a bank officer by the bank that salary increase had to be permanent?

A He didn't put it that way, sir, he put it that you couldn't take it away from -- that if the guy elected to get out of the plan, that is the way he put it.

Q That if the man decided to withdraw from the contributions club you couldn't take the salary increase back, away from him?

A That is right.

Q Sir, how long do you know Dave Dowd?

A At that time, sir, I guess I met Dave in '64.

Q So you knew him at least three and possibly four years; is that correct?

A Yes.

Q And during this time and up to the time that you heard this telephone conversation, did you ever know

David Dowd to lie to you?

MR. PATTISON: Objection.

THE COURT: No, no, I will permit him to answer.

A No.

Q And then you say there came a time that David Dowd spoke to you. Do you recall when it was?

A I recall that it was sometime in 1971.

Q Sometime in 1971?

A Yes.

Q All right.

So in 1971 you had a conversation with David Dowd concerning your participating in this club, so to speak?

A That is correct, sir.

Q All right.

And at that time -- by the way, where did that conversation take place?

A In the bank, I think it was at my desk.

Q At your desk?

A Right.

Q And where was your desk located at that time?

Let me withdraw the question.

Was your desk located in some small confined office, or was this an open area?

A Oh, no, I was on a platform.

Q On a platform?

Will you explain to the jury what the term "platform" means?

A That is an area where a lot of different bank officers and secretaries have their desks, it is an open area.

Q It is an open area?

A Yes.

Q Are there any walls or partitions between the desks of the various people on the platform?

A No, not on that platform.

Q It was all open, right?

A Right.

Q It was in that open area that Dave Dowd came to talk to you?

A Yes.

Q All right, sir.

And in that conversation, as I recall, did Dave Dowd ask you whether you would be willing to join the club?

A Yes, he did.

Q Did he ask you or did he order you, sir?

A No, he asked me.

Q He asked you?

A True.

Q All right.

And he asked you whether you were willing to join the club?

A Yes.

Q And at that time did he tell you that if you joined the club you would get an increase in salary?

A No.

Q Was any salary increase mentioned at all at the time that you had this conversation with Dave Dowd?

A No.

Q By the way, were you ever given a salary increase at or about the time of this conversation that you had with Dave Dowd in connection with your contributions?

A Not in connection with the contributions.

Q Now, did David Dowd tell you that you had a choice, to join or not to join?

A He didn't say it specifically that I had a choice, but from the way it was asked I knew I could have declined.

Q You knew you could have declined?

A Sure.

Q Did Dave Dowd ever tell you in that conversation that your prospects for future salary increases depended

upon your joining the club?

A No.

Q Did David ever threaten you in any way at that time?

A No.

Q Did he ever threaten you at that time with job discrimination?

A No.

Q Did he ever threaten you at that time with financial reprisal if you didn't join the club?

A No.

Q Had you ever heard from anyone in the bank that David Dowd ever threatened anyone with job discrimination or job reprisal if they refused to join the club?

A No.

MR. PATTISON: Objection, your Honor.

THE COURT: It has been answered.

MR. COHN: The answer is, "No."

I have no further questions.

(Continued on next page.)

CROSS-EXAMINATION

BY MR. RYAN:

Q Mr. Lew, I represent Frank Powell.

Of course you came to the Security National Bank in 1967; right?

A I think I came in '66.

Q All right. Prior to that you had been at the Franklin National Bank?

A Right.

Q And you had been there when Pat Clifford was President of the Franklin National Bank?

A He was Executive Vice President.

Q And David Dowd had been at the Franklin National Bank?

A Yes.

Q And you were one of the series of new officers that had joined the Security National Bank with Mr. Clifford and Mr. Dowd; is that correct?

A Yes.

Q And after you worked at the Security National Bank, did you have an opportunity to have any dealings with Frank Powell?

A Yes, I did.

Q And did you have an opportunity to discuss

with people at the Security National Bank Frank Powell's reputation for honesty and integrity and trustworthiness?

A Yes, on occasions.

Q Will you tell us what that reputation was, sir?

A A general feeling of all of us that he was an honorable and trustworthy fellow and very well respected and well liked.

Q Thank you.

THE COURT: All right.

MR. BANNIGAN: I have no questions, your Honor.

THE COURT: Mr. Katzberg?

MR. KATZBERG: Thank you, your Honor.

CROSS-EXAMINATION

BY MR. KATZBERG:

Q Good morning, Mr. Lew.

A Good morning.

Q We have never met, have we, sir?

A No, we never did.

Q Did there come a time when you met with agents of the Federal Bureau of Investigation regarding this matter; isn't that correct, sir?

A Yes, sir.

Q And they told you that they were interviewing you about the contributions; isn't that correct, sir?

A Yes.

Q And they asked you to give them whatever information you might have had with respect to the contribution; is that correct, sir?

A That is correct.

Q And at that time you certainly didn't want to hold anything back; is that correct?

A No, sir.

Q You wanted to tell them everything that you knew, to cooperate with them so that they could get as much information as possible; isn't that correct, sir?

A That is correct.

Q Do you recall approximately when you spoke to the FBI in connection with this matter?

A I think it was in the latter part of '74.

Q Does it refresh your recollection if I said December 11th of 1974?

Does that sound about right to you?

A It could very well be.

Q And at that time you told them everything you knew with respect to the contribution; is that right, sir?

A That is correct.

Q Now, you told us that you had been at the Franklin Bank before you came to the Security; is that correct?

A Yes.

Q And that is when you first met Mr. Clifford and first met Mr. Dowd; is that correct, sir?

A Yes.

Q Did you become aware of the circumstances under which Mr. Clifford let the Franklin National Bank?

A Yes.

Q And what were they, sir?

A It was a kind of -- it was an internal situation.

THE WITNESS: Should I answer this?

MR. COHN: I will object to this, this relates to the Franklin National Bank, your Honor, unless I misunderstood the question.

THE COURT: Did you say the Franklin National Bank?

MR. KATZBERG: I asked the question, I asked whether or not this witness knew the circumstances under which Pat Clifford left the Franklin National Bank to come to the Security.

MR. COHN: I'm going to object to that.

THE COURT: Immaterial.

THE WITNESS: Do I answer that, sir?

THE COURT: No. I will tell you when to

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answer, don't worry.

MR. KATZBERG: May I continue?

THE COURT: You may continue, sure.

BY MR. KATZBERG:

Q Now, going to that conversation that you spoke, that you testified to on direct examination, you said it was approximately in 1968: is that correct, when Mr. Clifford--

MR. COHN: He did not say that, your Honor.

MR. PATTISON: Let him answer the question.

MR. COHN: The question is misleading.

THE COURT: I don't understand why you are objecting.

He may answer and if he didn't say it, he will say he didn't.

Q You testified on direct examination that the conversation was approximately in 1968.

A I said I thought it was in 1967 or 1968, I wasn't sure.

Q Could it have been in 1969?

A I don't think so.

Q What was your title, do you remember, at the bank then?

A I was either a Manager or an Assistant Vice President, Assistant Vice President or Manager, one or the

other? A 1521

Q O.K.

Now, referring back to the time that you spoke to the FBI, did you ever tell the FBI about that conversation, sir?

A No, they never asked me.

Q The question is did you tell him --

MR. NAFTALIS: Objection, your Honor --

THE COURT: The answer is, "No."

Q You didn't tell them; is that right?

A That is right.

Q When for the first time did you ever tell anybody about that conversation?

A It was about three, four weeks ago, I told Gary Naftalis.

Q And he called you up, sir?

A Yes, I guess he called me up, yes.

Oh, no, I think I was sitting in his office.

Q How did you get there, sir?

A He called me up.

Q To speak to you about the case; is that right?

A Right.

Q And that was the very first time, three weeks ago, when you ever told anybody about that conversation;

is that correct?

A Oh, I might have told people about it, I might have told people about that, maybe, you know, four years ago; I don't remember that I did or didn't.

Q But your first recollection of telling anybody specifically was when you told Mr. Naftalis three weeks ago?

A That is correct.

Q You certainly didn't tell it to the FBI in 1974, did you?

A They didn't ask it.

Q You didn't tell them --

MR. NAFTALIS: Your Honor, I object to the argument.

THE COURT: It is argumentative at this point.

BY MR. KATZBERG:

Q Now, you testified that sometime in 1971 Mr. Dowd asked you to participate in this matter; is that correct?

A That is correct.

Q And at that time he didn't mention anything about compensation for salary for the contributions; is that correct?

A No, he did not.

Q Did he ask you whether you were willing to

participate and did you say that you were; is that correct?

A Yes, sir.

Q Now, isn't it a fact that on January of 1971 you received three -- I am sorry, a $3,000 salary increase?

A Yes, I think it was in December or January of '71.

Q And would it refresh your recollection if I said that you received a $3,000 salary increase in January 4, 1971?

A I suppose that is true.

Q Isn't it further a fact that just about five or six months prior to that, in July of 1970, you received a $6,000 salary increase?

A Yes, that was the big one.

Q And just about six months prior to that or about a year prior to the $3,000 raise you received a $4,000 raise; isn't that correct?

A I suppose, I suppose, I don't know exactly when I got those raises.

Q Why don't you take a look at Government's Exhibit 31 for Identification and tell us whether or not it doesn't refresh your recollection about those raises.

A Could you give me those dates again?

Q Certainly, sir. 1/5/70, $4,000.

A I don't even know where the dates are (indicating).

Q Look in the right-hand side.

A 1/5/70.

I see. I got $4,000, apparently.

Q 7/6/70, $6,000?

A Right.

Q Six months later?

A Right.

Q 1/4/71, $3,000?

A Right.

Q Now, isn't it a fact, sir, that you didn't begin making the contributions until after you received the $3,000 raise?

A Yes, I was always getting raises.

Q The question is isn't it a fact that you did not begin to make the contributions until after you received the raise?

A Yes, that is a fact.

Q I want to show you the contents of Exhibit 142 for Identification and tell us what the dates of the various -- well, the date of the very first check is, sir?

A The first check is the one on the top or should I look at all?

Q Look at all, I believe it is, but why don't you double-check.

A February 3, '71.

(Continued on next page.)

Q All right.

The month following you received a $3,000 salary increase?

A Yes.

Q Is that correct?

A That is correct.

Q Now, obviously, Mr. Dowd had to ask you to contribute prior to your receipt of the first contribution?

A I didn't hear you.

Q I will rephrase it.

Obviously, Mr. Dowd asked you to contribute prior to the date of the first contribution in early February of '71; isn't that correct, sir?

A Yes, I would say so.

Q And do you recall Mr. Dowd saying anything about confidentiality during the course of this conversation where he asked you to contribute?

A You mean about keeping it quiet?

Q Yes, sir.

A I do not think so. I don't --

Q May I show you, sir --

A I don't think so.

Q Let me show you --

A I don't recall.

Q Let me show you a report of your interview with the FBI again --

MR. NAFTALIS: I don't think he identified the document.

Now unless he wants to show him the piece of paper and ask if it refreshes his recollection or if he wants to offer it in evidence --

THE COURT: He doesn't need any instructions.

MR. NAFTALIS: I am sorry, your Honor.

THE COURT: I give the instructions around here.

You may proceed.

BY MR. KATZBERG:

Q Let me show you a document, and ask you to look at this sentence on the second paragraph and ask you if that doesn't refresh your recollection that indeed Mr. Dowd may very well have said that the matter was to be handled confidentially or in a confidential way.

MR. COHN: I am going to object to the question.

A I don't think it does --

THE COURT: Just one moment.

THE WITNESS: What was done and I --

THE COURT: Just a moment.

As a witness you must wait until the lawyer asks you a question or if there is an objection wait until I rule.

A 1528

THE WITNESS: I am sorry.

MR. COHN: I object to the form of the question, the words "Mr. Dowd may very well."

Let me ask a question --

THE COURT: That word makes the question speculative and we don't have speculative questions.

BY MR. KATZBERG:

Q Does that refresh your recollection that Mr. Dowd told you that it was confidential?

A No, it doesn't.

Q Does it refresh your recollection that that is what you told the FBI?

A I might have, I guess I did, if it says I did, but --

MR. NAFTALIS: I think the document should be read. If he wants to offer it into evidence --

MR. KATZBERG: I don't want to offer it. I --

THE COURT: Let him examine him in that manner, there is nothing wrong with it.

BY MR. KATZBERG:

Q And thereafter, as the check indicates, after you got the $3,000 salary increase you began to make these political contributions; is that correct, sir?

A That is correct.

A 1529

Q Now, those checks contained in that exhibit -- look at them for a second --

A I am looking, yes.

Q Isn't it a fact that the checks contained in that exhibit do not reflect all of the checks that you wrote as a part of this contribution method?

A I don't know.

Q Well, let me see if I can refresh your recollection then, sir.

Do you remember telling the FBI when you turned over checks to them in December of 1974 that you were unable to find the check registers, and that the cancelled checks which were turned over were only a part of the contributions you made?

A Yes, yes.

Q All right.

A I have lost some of the checks and some of the check registers. I had moved my office and we got our --

Q So again, is it fair to say that the checks contained in Exhibit 142, now that your recollectionis refreshed, are certainly not all the checks that you wrote pursuant to these contributions; is that correct, sir?

A Yes, I think so.

Q Now, isn't it further a fact that these

A 1530

contribution checks were written out as per Mr. Chadwick's instructions, Arthur Chadwick's?

A Yes, sir.

Q And you recall that he would call you up each month and give you the name of a politician or a political organization and you would draw your check accordingly?

A That is correct.

Q Sometimes Democrats, sometimes Republican; is that correct?

A Right.

Q You followed his instructions and you would send him the check; is that correct?

A Right.

Q How would you send the checks to Mr. Chadwick?

A I don't know, my secretary did it.

Q You don't know how she did it?

A No.

Q Were you in the same office with him?

A With Arthur?

Q Yes.

A No, he was in a different part of the bank.

(continued next page)

Q And you have no recollection how they were sent to him?

MR. NAFTALIS: Objection, it was not his testimony.

A All I did was sign them.

Q You do not know how they got the check?

A No.

Q By the way, Mr. Lew, have you owned in this period of time any real estate?

A Had interest in real estate --

MR. COHN: I did not hear that.

THE COURT: Did he own any real estate.

MR. NAFTALIS: I do not see its relevance.

MR. KATZBERG: May we approach the bench?

THE COURT: Yes.

(The following transpired at side bar.)

MR. KATZBERG: Mr. Casey testified that he and Mr. Clifford discussed Mr. Lew's situation. Clifford complained that the salary increase that Roger Lew got was actually putting money into his pocket, because he had extensive real estate holdings and tax shelters.

MR. PATTISON: That is on page 1355.

MR. KATZBERG: All I am saying is that that

corroborates the conversation between Casey and Clifford that Lew --

MR. COHN: There is no testimony that the raise has anything to do with the contribution.

THE COURT: No value in it at all.

MR. PATTISON: We aren't done yet. If you want to leave, leave.

Casey testified page 1355 that Clifford and he talked about the fact that Lew's salary raises were more than they should have been because --

THE COURT: How does that bind Lew?

MR. PATTISON; We just want to show that because of the tax shelters he had --

THE COURT: You cannot attack his credibility with what two other people said about him. Absolutely not.

(The following transpired in open court.)

THE COURT: The objection is sustained.

BY MR. KATZBERG:

Q Now, you indicated on your direct examination, Mr. Lew, that there came a time in late 1973 or 1974 that the decision making process at the bank, the power to make certain decisions, was transferred from Mr. Clifford to a policy committee; is that correct?

A 1533

A It was called "the Executive Committee."

Q I am sorry?

A It was called the "Executive Committee."

Q Isn't it true that the decision-making power that was thus transferred at that time, at least in part, consisted of decisions to make loans?

A And other things too, but loans too.

Q That was a substantial part of the decision-making process that was switched over to this committee?

A Yes.

Q Isn't it a further fact that the reason this was done was because the loan situation at the bank had become very drastic?

A That may be someone's opinion, it isn't mine.

Q Would you tell us why it was done?

A Would you repeat that?

Q Can you tell us why it was done to your knowledge?

MR. COHN: I object to that.

THE COURT: What was done?

MR. KATZBERG: The policy-making authority.

THE COURT: We do not know whether he knows it or not.

Do you know what the policy-making authority

A 1534

Lew-cross/Katzberg

was of the bank as to loans?

THE WITNESS: I have some idea.

THE COURT: He says he has some idea.

What is your idea?

THE WITNESS: Your Honor --

THE COURT: You are not too sure of the question?

He does not understand the question.

Q Isn't it a fact that that transfer of authority took place because the bank loan portfolic was in substantial trouble?

MR. COHN: I will object to that. What does that have to do with this case? This is an illegal contributions case.

MR. PATTISON: On direct examination this was brought out.

MR. NAFTALIS: Nothing about loan policy.

MR. PATTISON: I'd rather not argue it here in open court.

THE COURT: You must lay a better foundation than that.

Q There came a time when you testified on direct examination that this authority was transferred, correct?

A Correct.

Q And part of the authority so transferred was the authority to make loans; is that correct?

A That's correct.

Q I ask you, sir, isn't it a fact --

THE COURT: Only if he knows.

MR. KATZBERG: Only if he knows.

Q Isn't it a fact that the reason this lending authority had been transferred was because the bank's loan portfolio was in serious trouble?

MR. COHN: Judge, this is very prejudicial. I ask that you instruct the jury to disregard the remark.

THE COURT: There is no evidence of any serious trouble. I do not think it is necessary at this point.

MR. KATZBERG: I will withdraw the line, your Honor.

THE COURT: Did you know the condition of the bank at the time it was making these loans?

THE WITNESS: I thought I did.

THE COURT: Tell us what you knew about it.

THE WITNESS: I thought our condition was the same as any other banks.

A 1536

THE COURT: We are not concerned with another bank. We want to know what you knew about this bank.

THE WITNESS: We had some problem loans.

THE COURT: What do you mean by "problem loans"?

THE WITNESS: Workouts.

THE COURT: You have to speak to the jury and explain what you mean. I ma not a banker and neither are they.

THE WITNESS: Loans we had difficulty with.

THE COURT: You mean collecting those loans?

THE WITNESS: Right.

THE COURT: Do you know the extent of the difficulties that you had in collecting those loans?

THE WITNESS: I knew the extent within the area I was involved in, yes.

Q Do you have any idea as to the amount of the loans that were outstanding and uncollectible? Only if you know.

THE WITNESS: I couldn't answer that.

THE COURT: All right.

Q Mr. Lew, you testified on direct examination that you were aware that other officers of the bank were in fact given raises specifically for political contributions;

isn't that correct, sir?

A Yes.

Q Approximately how many did you personally know received such raises?

A I don't know. Maybe five or ten or something like that. It's hard to give you a number.

Q Certainly more than one or two?

A Yes, sure.

Q A good number?

A Five or ten, let us say.

Q That you knew yourself of your own knowledge?

A Yes.

Q When Mr. Dowd asked you to contribute without offering you a raise, did you say:

"Dave, if everybody else is getting raises, why not me?"

Did you ask him that?

A No.

Q Did you ask him whether or not he could put in a good word for you to get you that raise?

A No.

Q Did you say anything at all about the individuals you knew were getting raises?

A No, I did not.

Q Did you give him examples of the other people that were getting raises?

A No.

Q Did you tell him in fact that you knew that other people were getting raises?

A No, I do not think I did.

Q Isn't it a fact that some of these people that you know that were getting these raises specifically for the club had salaries at least as great and sometimes greater than your own?

A I am not sure of that. I was getting a pretty good salary.

Q Who were the other officers for example?

A Well, you mean who I knew then or now?

Q Who you knew for a fact then.

A Now I can't think of them. I knew there were guys, but I can't think of exactly what their names were.

Q When for the first time did you learn that officers were in fact getting these salary increases for contributions?

A Well, the first time I heard of it was when it was going to happen, when Mr. Dowd and Mr. Clifford were in that meeting that I was in.

hs/ss 2

2Mam2 3

BY MR. KATZBERG:

Q When for the first time did you actually hear of somebody getting a raise?

A I don't recall.

Q Mr. Dowd ever tell you that he got such a raise?

A That who?

Q He himself, Mr. Dowd?

A No, he did not.

Q He was certainly making a substantially higher salary than you were?

A He was making more than me. I don't know how much more.

Q He never told you that he himself got a raise for that purpose?

A No.

Q And you didn't ask any questions about why you were not being treated the way others were?

A No, I didn't.

Q Now, you also told us that you knew of two individuals who were asked to contribute, but did not.

You mentioned Mr. Pavlikas and you mentioned Mr. Cisty; is that correct?

A Correct.

Q Were you told that Mr. Pavlikas refused to contribute on the basis that he was not going to get a salary increase for that purpose?

A I don't recall that. I do not know. I know he did refuse. He told me he did, but I don't know why.

Q This is the first time that you are hearing from anyone that the reason Mr. Pavlikas refused --

MR. BANNIGAN: I object to this. I object to counsel stating it. It is a fact.

Q There has been testimony in this case that Mr. Pavlikas refused to contribute because he was not being given a salary increase for the purpose.

Now, did you ever hear that when you heard that Mr. Pavlikas refused to contribute?

A Nope.

Q You also mentioned that the other person who was asked to contribute, but did not, was Mr. Cisty; is that correct?

A Yes.

Q Isn't it a fact that Mr. Cisty and Mr. Clifford had a very close relationship?

A Sure.

Q Extremely close; isn't that right?

A I don't know about "extremely" but they were

pretty close.

Q Isn't it a fact that the closeness of that relationship was well known around the bank?

A I am not sure. I do not know.

Q You certainly know of it?

A I knew a lot of things. I do not know if everybody else knew.

Q Isn't it a fact that Mr. Cisty was considered Mr. Clifford's pet, so to speak?

A Nah.

Q What was that?

A No.

Q Never heard that, sir?

A No.

Q No?

A I heard about other people, but not him.

Q Never heard of Mr. Clifford doing things for Mr. Cisty that he wouldn't do for others?

MR. NAFTALIS: Objection.

THE COURT: I do not understand that question at all. I do not know where it is leading.

THE WITNESS: Do I answer?

THE COURT: No.

Q How many to your knowledge were making these

contributions?

A I read in the paper -- I know what I read in the paper.

MR. BANNIGAN: Objection to that.

Q Just as to your own knowledge.

A I didn't know how many. I didn't know how many based on what information I got out of the bank. I only know what I read in the paper.

Q But you knew there was a sizable number; is that fair to say?

A Yes.

Q And the only two that you knew who were asked to contribute, Mr. Pavlikas and Mr. Cisty, that did not contribute; is that correct?

A Repeat the question again? I am sorry I did not hear you.

Q The only two individuals that you knew that refused to contribute were Mr. Cisty and Mr. Pavlikas; is that correct?

A That's correct.

Q Now, you said before that these checks were written by you as per Mr. Chadwick's instructions; is that correct?

A I said they were issued by me. My secretary

wrote them, I signed them. She typed some. Some of them are typed.

Q But the payees were on the instructions of Mr. Chadwick; is that correct?

MR. BANNIGAN: I object. He asked it three times and it has been answered three times.

THE COURT: Yes, he said that. Mr. Chadwick told you who the payees were to be?

THE WITNESS: Right.

THE COURT: There is no dispute about that.

MR. KATZBERG: At this time the Government would offer the checks, your Honor.

MR. RYAN: No objection.

MR. NAFTALIS: May we approach the bench for one moment? I know we have been there a couple of times already.

THE COURT: Take your recess, ladies and gentlemen.

(Jury leaves the Courtroom.)

THE COURT: You may step down, sir.

THE WITNESS: Am I finished?

THE COURT: No, you are not finished. You may step down.

(Witness leaves Courtroom.)

A 1544

MR. NAFTALIS: Your Honor, we would object to the offering of those checks. They serve no relevant purpose of any contribution that he made, even under the Government's theory. They were totally legal and proper. He received no reimbursement for contributions.

THE COURT: They are thinking that $3,000 might have been.

MR. PATTISON: We can show in a year and a half, from 1969 to 1971, he received $13,000 more in raises. We feel that it is evidence in this case, based upon all the evidence, and that it goes to its weight. The jury may find that indeed this was not so.

THE COURT: I agree.

MR. NAFTALIS: I respectfully except. I may add that Mr. Pattison told you about the raises beforehand and three years after this period he received $20,000 in raises. He was considered one of the stars.

THE COURT: You can bring that out.

MR. BANNIGAN: I also except, though he was not my witness.

THE COURT: All right, we will take a short recess.

(Recess taken.)

(After recess; jury resumes the jury box; witness resumes the witness stand.)

CROSS-EXAMINATION

A 1545

BY MR. KATZBERG: (Continuing.)

Q Mr. Lew, in reference to Exhibit 31, which we have been looking at showing your salary --

MR. NAFTALIS: I would object, unless he offers the exhibit into evidence. If he should read from it, he should offer it.

MR. KATZBERG: I have to lay a foundation.

MR. COHN: I have no objection. Let him offer it into evidence.

THE COUPT: Offer it into evidence.

MR. KATZBERG: So offered.

THE CLERK; Government's Exhibit 31, previously marked for identification, marked in evidence.

(So marked.)

MR. KATZBERG: I would also offer the checks, Exhibit 142.

MR. COHN: No objection.

MR. RYAN: No objection.

THE COURT: All right, mark it.

THE CLERK: Government's Exhibit 142, previously marked for identification, marked in evidence.

(So marked.)

BY MR. KATZBERG:

Q Now, the first check that you wrote 2/3/71, which is now in evidence, that was based upon a telephone call from Mr. Chadwick; is that correct?

THE COURT: I do not think you have to ask any further questions. He has admitted that Mr. Chadwick told him as to whom to make the checks out to.

Q And that check was written after that request?

MR. COHN: Objection. We concede it.

THE COURT: It is conceded that every check was made at the request of Mr. Chadwick.

Q Now Mr. Lew, you testified earlier --

THE COURT: You do not have to look at those. Listen to the question now.

Q -- about the advice of counsel.

You testified, did you not, that you would often seek the advice of the Shea firm on various legal matters as they would come up; is that correct?

A Yes.

Q And you would make a request, the attorney would give you the advice; is that correct?

A That's correct.

Q If there was anything of any substance on a legal question, there would be times when you would ask the

attorney for a written opinion on the subject; is that correct?

A 1547

A On occasion, yes.

Q You would ask for the opinion and there would be a letter that came back from one of the lawyers which would spell out precisely what you could do and what you could not do with reference to that legal point?

MR. COHN: I object to what the lawyer spelled out. I have no objection to the letter going in.

MR. RYAN: It is in evidence.

MR. COHN: Let him read it to the jury as far as I am concerned.

THE COURT: He can do that.

Q Is that correct?

THE COURT: He lost the question.

MR. KATZBERG: I will ask it again.

Q Under those circumstances, the attorney would send you, or whoever asked for the opinion, a letter outlining the response to your request about the legal question; is that correct?

A If we asked for a written opinion.

Q I want to show you Exhibit AAA already in evidence.

(Document shown to witness.)

Q Isn't it a fact that that is in fact a legal opinion on a specific legal question from Mr. Hagan of the Shea firm to you; is that correct?

A Yes, this is a legal opinion, right.

Q And this is an example of many such legal opinions; is that correct?

A Yes.

Q Did you ever seek a legal opinion from anyone in the Shea firm with respect to legal contributions?

A A written legal opinion, no.

Q Did anyone at any time in the bank, Mr. Dowd, Mr. Clifford or anyone else, ever tell you that such a written opinion on the contributions had been requested?

A Been requested, no.

Q Did you ever learn from anybody at the bank at any time that a written opinion on the contributions subject had been received?

A No.

MR. KATZBERG: I have nothing further, your Honor.

(Continued next page.)

s/ss
am3

REDIRECT EXAMINATION

BY MR. NAFTALIS:

Q Mr. Lew, you indicated on occasion things would be in writing; is that correct?

A Yes.

Q And on occasion they would be oral?

A That is correct.

Q And it really depended upon whether the bank requested that the opinion be given to them be put down in writing or not?

A Always depended on whether we were short of time and had to do something quickly or whether they didn't have time to write an opinion, you know, it was a lot of different circumstances that would cause whether you got a written one or an unwritten one.

Q Now Mr. Lew, are you aware that the bank had made a loan to a man by the name of Kassuba?

A No.

Q Did it come to your attention, sir?

MR. PATTISON: Objection, beyond the scope of cross.

MR. NAFTALIS: It is very much within the scope of cross.

THE COURT: I did not hear the name or any

particular loan made on cross-examination. I am sitting here with you and the only thing that was asked was whether or not the bank had made loans and whether they transferred it from one department to another.

MR. NAFTALIS: May I make an offer of proof?

THE COURT: It is improper. No matter what proof you give me, unless I should decide you have a right to ask it.

(The following transpired at the side bar.)

MR. NAFTALIS: Mr. Katzberg in his cross-examination attempted to create the implication that somehow an opinion was not given here, despite Mr. Lew's testimony as to the oral opinions, because somehow it wasn't in writing. I want to bring out that this man has personal knowledge of one situation in which Mr. George DeGennaro gave an oral opinion on a transaction and later there was a great deal of difficulty in getting him to put it down in writing. That goes to Mr. DeGennaro's credibility and to the issues we raised in this case.

MR. BANNIGAN: There might not have been a written opinion in this case.

MR. NAFTALIS: I would ask that the Government

be precluded from arguing to the jury about the absence of a written opinion and that the fact that an oral opinion is no good.

THE COURT: I will sustain the objection. Improper.

(The following transpired in open Court.)

THE COURT: The objection is sustained.

THE WITNESS: Does that mean --

THE COURT: That means you cannot answer.

BY MR. NAFTALIS:

Q Let me show you Exhibit 31 in evidence.

Exhibit 31 has been identified as a card reflecting various raises that you received over the course of years at the Security National Bank. That was admitted under cross-examination; is that correct?

A That's correct.

Q And I would like to go through that with you.

The first one is dated January, 1968.

Did you receive a $2,000 raise?

A Just a second -- $2,000 right.

Q Then five months later in June of 1968 you received another thousand?

A Right.

Q In August of 1968 you received close to another

thousand?

MR. PATTISON: The card is in evidence.

THE COURT: He has a right to do this. Go ahead.

A I am sorry?

Q You received close to another thousand dollars?

A 945.

Q Then in January of 1969 you received in excess of $2,000?

A Right.

Q And in June of 1969 you received another $2,000 raise?

A Right.

Q And in December -- in January of 1970 you received another $4,000 raise -- you received a $4,000 raise, rather?

A Right.

Q Then in July of 1970, how much was your raise?

A 6,000.

Q And in January -- January 4th of 1971, how much was your raise?

A 3,000.

Q And in January of 1972, how much was your raise?

A 3,500.

Q And on January 1 of 1973, how much was your raise?

A 5,000.

Q And in January of 1974, what was the raise you received?

A 5,000.

Q And on June 30th of 1974, what raise did you receive?

A 5,000.

Q So it is fair and honest to say you were someone that received a fair amount of raises during the time that you were in the bank?

A Yes.

Q And you ended up in a relatively high position in the bank at the time you were through?

A Yes.

Q What position was that?

A Senior vice president.

Q And I think you testified when youwere asked to contribute, in no way were raises mentioned to you?

A That's right.

Q All these various raises you received related to your performance in the bank?

A Surely.

Q By the way, had Mr. Dowd offered you a raise, would you have accepted it in connection with contributions?

A Sure, I would have accepted it.

Q You have to keep your voice up.

A I would have accepted it, sure.

Q Now, it was brought out in cross-examination that you were interviewed by the Federal Bureau of Investigation?

A That's right.

Q And in connection with that interview you were asked questions?

A Yes.

Q And you answered questions?

A Yes.

Q And I take it is fair to say you were never asked a question about the meeting where Mr. Dowd came to Mr. Clifford's office reporting the legal advice that Mr. DeGennaro had given him?

A No.

Q They never asked you that?

A No.

Q After you were interviewed by the Federal Bureau of Investigation, were you ever contacted by the United States Attorney's office and asked to be interviewed?

A No.

Q Were you ever asked by the United States Attorney's office to testify about your knowledge of the facts before a federal grand jury?

A No.

Q Were you asked by the United States Attorney's office to testify as a witness for them in this lawsuit?

A No, not for them.

MR. NAFTALIS: I have no further questions.

MR. COHN: I only have one question to ask.

Mr. Katzberg, may I please have the FBI report? Is this the one you showed the witness?

MR. KATZBERG: Yes.

MR. COHN: Do you mind if I show it to him?

RECROSS-EXAMINATION

BY MR. COHN:

Q I just want to clarify one point:

Do you recall Mr. Katzberg asking you to look at the FBI report on the question whether or not Mr. Dowd told you to keep your conversation confidential?

A Yes.

Q And he asked you to look at the last sentence of the second paragraph and he then said to you:

"Isn't it a fact that Mr. Dowd told you to keep

it confidential?"

Do you remember him asking you that question?

MR. KATZBERG: That is not what I said.

MR. COHN: I will withdraw the question.

THE COURT: He is looking at me as to whether he should answer it or not. Do not answer it. NExt question, please.

Q Isn't it a fact that you told the FBI that you couldn't recall whether Dowd toldyou to keep the conversation confidential or not?

A That's correct.

Q And you never told the FBI that Dowd told you to keep it confidential?

A That is right, I did not tell them.

MR. COHN: I offer the FBI report into evidence.

MR. BANNIGAN: I have no objection.

MR. COHN: I have no further questions.

MR. PATTISON: Unless they are all allowed to come in --

THE COURT: Sustained.

Ladies and gentlemen, this is just a matter of rules of evidence and admissibility. You are not to draw any conclusions one way or the other.

(Continued next page.)

RECROSS-EXAMINATION A 1557

BY MR. RYAN:

Q There are some additional checks of yours that were in evidence before you took the stand. They contain a triple B-1, payable to William A. Shea. Do you see that?

(Document shown to witness.)

A Those are not my checks.

Q I am sorry, look at the last check?

A Okay.

Q One check payable to the firm, do you see that?

A Yes.

Q Do you recall the circumstances under which that check was issued?

A Specifically, no.

Q According to the report, it was used to reimburse Mr. Shea --

MR. KATZBERG: Objection.

THE COURT: See if that refreshes his recollection.

Q Look at these documents and see if they refresh your recollection?

If it doesn't, it doesn't.

A This is not my check.

MR. RYAN: I know that.

THE COURT: It does not refresh his recollection.

MR. RYAN: No further questions.

THE COURT: Any further questions?

You may step down. Thank you.

Call your next witness.

(Witness excused.)

(Continued next page.)

JOHN L. COULSON, called as a witness, having been first duly sworn by the Clerk of the Court, testified as follows:

THE CLERK: State your full name.

THE WITNESS: John L. Coulson, C-o-u-l-s-o-n.

MR. NAFTALIS: May I inquire, your Honor?

THE COURT: Yes.

DIRECT EXAMINATION

BY MR. NAFTALIS:

Q Mr. Coulson, try to keep your voice up. I think I am losing mine. Keep your voice up so all the ladies and gentlemen of the jury can hear you.

What do you do for a living?

A I am an officer of the Chemical Bank, New York.

Q What is your position with the Chemical Bank?

A Vice President.

Q When did you start at Chemical?

A Well, when they took over on January 20, 1975.

Q And prior to that, you had been with the Security National Bank?

A Yes.

Q How long, sir -- withdrawn.

Prior to going to the Security National Bank, did you ever work for another bank?

A 1560

A I did sir.

Q And when was that, approximately, and what was the name of that bank?

A Worked for the Franklin National from 1958 until 1969.

Q After you left the Franklin National ,what did you do for a living?

A Went to Washington with the Bureau of Indian Affairs.

Q After you left the Bureau of Indian Affairs, what did you do after that?

A I joined the Security National Bank.

Q Approximately when was that, sir?

A May, 1970.

Q Now, I want to direct your attention to approximately early 1971.

Did you have a conversation with anyone on the subject of political donations?

A Yes, I did.

Q Do you recall to the best of your recollection who it was?

A Mr. Wulffleff -- Doug Wulffleff.

Q What was your conversation on that subject?

A He asked if I would be able to make political

contributions and he indicated it would be $100 a month and I agreed that I would be willing to do so.

Q Was your participation in making political contributions voluntary?

A Yes, it was.

Q Did you feel you had a choice to say yes or no?

A I felt I could say no, if I so chose.

Q Therefore, your decision to do it was voluntary?

A Yes.

Q During your conversation with Mr. Wulffleff, did you have any discussion about your receiving any raise for the purpose of making those contributions?

A No, sir.

Q Did you learn on or about that time or any later time that other people who were making contributions had in fact received raises?

A Yes, I did note that some people had.

Q But you did not?

A I did not.

Q Now, there came a time when you began making contributions; is that correct?

A That is correct.

Q And did you receive any telephone calls asking you to do it from any person?

1562 A Yes.

Q Who was the person?

A Normally, it was Mr. Chadwick -- Arthur Chadwick.

Q And whose money did you use to make those political contributions that you used after having spoken to Mr. Chadwick?

A It was my money.

Q And what was your understanding as to the purpose of making those contributions?

A Well, the purpose was to purchase tickets for various political events on Long Island or New York or wherever it may be.

Q And did you yourself ever attend any of those dinners or events?

A I attended most of them in the area that I was responsible for.

Q When you went to those dinners, did you carry a business card with you?

A Oh, yes.

Q Did you introduce yourself as coming fromany particular organization?

A Yes, if it was appropriate.

Q You told people that you worked for the Security National Bank?

A Right.

Q And you spoke to potential customers?

MR. PATTISON: That is leading.

THE COURT: Yes.

MR. NAFTALIS: I agree, Mr. Pattison is right.

Q Do you recall whether or not you ever spoke to any people who became customers of the bank during any of those dinners?

A I am sure that I did. There would be a lot of people there and obviously a lot of them customers or potential customers.

Q Now, did there ever come an occasion when you skipped making a particular contribution to Mr. Chadwick? Did there ever come any occasion when you skipped making any contribution that Mr. Chadwick requested that you make?

A Yes, there were.

Q Do you recall any particular occasion where you skipped and for what reason?

A Well, there were occasions when I felt very strongly supporting certain candidates for office and I supported them individually.

Q And let me see if I can specify one particular candidate.

Are you familiar with the candidate for office

who ran for Congress on the Island named Angelo Rancallo?

A Yes, I supported him on both of his campaigns.

Q Was your support for him in any way connected with the political donations program of the Security National Bank or was it done totally separate and apart?

A Well, it was done separate and apart. It was done of my own free will and volition. When I did that I did not feel that it was necessary for me to contribute to the other candidates who were running or other events that were taking place at that time.

Q Did you inform Mr. Chadwick that you had given independently to Mr. Rancallo's campaign?

MR. KATZBERG: Objection as leading.

THE COURT: I will allow it. We are past the leading stage now.

A Yes, I did.

Q And what did Mr. Chadwick say?

A He said, "Okay, fine."

Q Now, you know Mr. Clifford, I take it?

A I do.

Q And you have known him for some years?

A I have.

Q By the way, have you ever had any conversation with Pat Clifford on the subject of political contributions?

A No, sir.

Q During the years that you worked for Pat Clifford, have you come to an opinion as to Pat Clifford's reputation for honesty and integrity and law-abidingness?

A Yes, I have.

Q What is that reputation?

A In my opinion, unblemished.

MR. NAFTALIS: I have nothing further.

CROSS-EXAMINATION

BY MR. COHN:

Q My name is Irving Cohn. I am David Dowd's lawyer. Until today have you or I ever met?

A No.

Q Have we ever spoken to each other?

A No.

Q And you know Dave Dowd?

A Yes.

Q Do you know him at the bank?

A Yes.

Q How long did you know him at the bank?

A Well, I knew him from the time I joined the bank and I knew him before that.

Q Did you know him in any connection outside of banking circles?

A Yes, I did. I worked very closely with him when he was President of the Suffolk County Boy Scouts Council.

Q And how long did you work with him in that activity?

A Gee, it must have been five or six years, to the best of my recollection.

Q By the way, did you ever have any conversation with Dave Dowd in connection with the Security National Bank in the political contributions system?

A Not that I can recollect.

Q Now, Mr. Coulson, during the time that you worked with Dave Dowd at the bank and during those five or six years that you worked with him in the Suffolk County Boy Scouts Council, did you have occasion to discuss with people at the bank and at the Boy Scouts Council Mr. Dowd's reputation for honesty, integrity, truthfulness and trustworthiness?

A I don't think there was any question about his reputation.

Q What is that reputation?

A He was always unblemished. He was a very respected individual in Suffolk County and in banking circles.

MR. COHN: Thank you. No further questions.

MR. RYAN: No questions.

MR. BANNIGAN: No questions.

THE COURT: Mr. Katzberg?

CROSS-EXAMINATION A 1567

BY MR. KATZBERG:

Q Good afternoon, Mr. Coulson.

A Good afternoon.

Q Mr. Coulson, my name is Robert Katzberg and I represent the Government in this matter. We have never met before, have we?

A No.

Q You just testified on cross-examination by Mr. Cohn that you never spoke to Mr. Dowd or he never spoke to you about these matters; is that correct?

A That's correct.

Q Remember ever telling anybody that you weren't certain whether it was Mr. Wulffleff or Mr. Dowd who asked you to make these contributions?

A When the FBI was questioning me on the subject, it probably came out like that, and I think I also probably mentioned Mr. Travers at the time. But I reported directly to Mr. Wulffleff, so I feel confident in stating that he was the one that brought this to my attention.

Q So you did tell the FBI that you were not certain whether it was Mr. Dowd or Mr. Wulffleff who first discussed the club with you?

A 1568

A It could have been, but it wasn't.

Q Let us see if I can refresh your recollection.

Would you look at this paragraph here, sir, and tell us whether or not your reading of that paragraph does not refresh your recollection and you told the FBI that it was under David Dowd or Douglas Wulffleff who introduced you to the club, but you were not certain?

A Well, this is taking a conversation that I had with them and again I repeat that it would be put down here as a misinterpretation of the way I spoke. I worked for Doug Wulffleff and he is the one that gave me directions or asked me to make contributions.

Q The question is, sir, looking at the document --

THE COURT: I think he answered the question.

Q That does not refresh your recollection?

A Not specifically, no.

THE COURT: It has been answered.

Q By the way, who did Mr. Wulffleff report to?

A Well, Mr Wulffleff, when he first joined the bank reported to Mr. Travers under the chain of organization, I believe.

Q And then?

A Well, whoever succeeded Mr. Travers. Mr. Johnson succeeded him, so I presume he would have reported

to Mr. Johnson.

Q Now, it is your recollection that Mr. Wulffleff was the one who made the request of you?

MR. NAFTALIS: Objection, it is now your recollection.

THE COURT: It is what he says.

MR. KATZBERG: I know.

Q And this was in or around January of 1971; is that correct?

A Well, I would say probably within that time frame.

Q Approximately?

A Yes.

Q Isn't it a fact that in January of 1971 you received a $2,000 salary increase?

A That's correct.

Q Isn't it a fact about six months later you received a $1,000 salary increase?

A That's correct.

Q Now, did there come a time that you actually began to make these contributions?

A I presume that I started some time in January or the first part of 1971.

Q I want to show you the contents of this exhibit. I want you to look through that exhibit.

A 1570

(Document shown to witness.)

That is Exhibit 126 for identification. Look at the top check there and tell us whether or not that refreshes your recollection as to the date you made the first contribution?

A Well, this is dated February 25, 1971 so if that is the first check in the series --

(continued next page)

A 1571

Q Look through them all to make sure.

A I don't see any earlier than that.

There is nothing earlier than 1971.

Q So isn't it a fact, sir, that you didn't, you did not start making those political contributions until after you received that $2,000 salary increase in January; isn't that correct?

A Well, that is a coincidence.

Q Isn't it a fact that the first contribution --

A I received the increases in anuary and I started the contributions in February.

Q Thank you, sir.

Now I believe, Mr. Coulson, that you testified on direct examination that there came a time when you asked to be passed by, so to speak, in making these contributions; is that correct, sir?

A That is correct.

Q Mr. Chadwick would call you up and you would make the contributions but at one point in time you had been making contributions yourself, so to speak, and not connected with the contributions organization.

A Right.

Q And is it correct that you did not want to be asked to contribute?

A 1572

A That is correct.

Q That is from the bank for that purpose.

And so you were skipped by at that time; is that correct?

A I didn't make a contribution.

Q Because you were already supporting another candidate; is that correct?

A Right.

Q Isn't it a fact that these checks that you wrote were in support of candidates and parties, sir?

A Well, they were for the political party that was supporting candidates, yes.

Q Exactly, and that is why you felt that since you had been independently making contributions to support another candidate, it was sort of unfair, shall we say, to be asked to support other people at the same time; is that correct?

A I didn't think it was unfair. It was my own choice.

Q But at that time whether it was fair or not you chose, since you were supporting one individual, not to support others at the same time for whatever reasons.

A Yes, it was my choice.

Q Now you said that it was your understanding that these contributions were for events; is that correct, sir?

A Yes, most of them were for events.

Q Look at the first check, February 25, 1971.

Who was that made out to?

A The Suffolk County Republican Committee.

Q Is that for an event, sir, or is that a flat out contribution?

MR. NAFTALIS: Objection, unless he knows the committee running the event.

THE COURT: If he knows.

A I really couldn't answer it, but I know the Suffolk County Republican Committee ran several affairs at that time of the year.

Q That check isn't drawn for a specific affair, is it, sir?

A No.

Q It is not endorsed by a specific affair, for an account for a specific affair or event, is it?

A No, it isn't.

Q The next check is Citizens for Senator Camra, I guess that is, and that is the same kind of contribution; isn't that correct, sir?

A Well, this is $25 contribution, I think they possibly ran some kind of affair for him at the Town House.

Q There is no mention of that in that, is there?

A No, there is no affair mentioned, no, sir.

Q And the same with a Bronx Republican Committee, sir?

A All of these people ran affairs.

Q The question is is the check drawn to an affair or is the check drawn to a committee or --

THE COURT: He has answered it, Mr. Katzberg, he said as far as he was concerned they are made out to committees.

THE WITNESS: They were made out to committees and affairs.

Q But there is no reference to an affair, is there?

MR. BANNIGAN: I will object.

THE COURT: I will sustain the objection, I will sustain it.

Q Now, those checks are drawn to both Republicans and Democrats; isn't that correct?

A That is correct.

Q And those checks were drawn to Democrats and Republicans who Mr. Chadwick indicated the checks should be drawn to; isn't that correct?

A He would ask you to draw a check to whatever they show on there.

Q And each and every one of those checks was drawn

by you as per Mr. Chadwick's instructions; is that correct?

A That is correct.

MR. BANNIGAN: Your Honor, he was asked --

THE COURT: He has answered.

MR. BANNIGAN: It is a characterization.

THE COURT: He answered.

Q Is that correct, each?

A He would ask you to draw the check to so-and-so.

Q And each and every one of these checks were drawn per his request?

A As per his request.

Q And for the amount that he asked?

A And for the amount he asked for.

Q And the person or committee that he asked for.

A Right, sir.

MR. KATZBERG: At this time, your Honor, the Government would offer this exhibit into evidence.

MR. COHN: No objection.

THE COURT: No objection?

All right, no objection, it is in evidence.

Do you want to offer that, just offer it.

I don't think it is necessary to go through the ritual.

MR. COHN: We consent.

A 1576 THE COURT: Everyone consents, okay.

Any other questions?

MR. KATZBERG: No, your Honor.

THE COURT: All right, no other questions.

Step down, thank you.

(Witness excused.)

THE COURT: We will recess.

All right, recess. Be back at 2:15. Be back at 2:15.

(At 12:55 A.M. a recess was taken.)

(continued next page)

We call Anthony Sisti as our next witness.

THE COURT: Step over here, please.

Raise your right hand.

A N T H O N Y J. S I S T I, having been first duly sworn by the Clerk of the Court, took the stand and testified as follows:

DIRECT EXAMINATION

BY MR. NAFTALIS:

Q Mr. Sisti, what do you do for a living, sir?

A I am Vice President of Chemical Bank.

Q What particular job do you do at the Chemical Bank?

A I'm in charge of the Melville office of Chemical Bank.

Q Are you with Chemical Bank by virtue of the fact that Chemical took over Security National Bank?

A Yes, sir, I am.

Q And, sir, were you employed for some period of time at Security National Bank prior to the Chemical Bank taking it over?

A Yes, I was.

Q Do you recall when you were first employed by Security National Bank?

A May 2, 1966.

Q And what titles and positions did you hold during the course of your eight years or so -- eight and a half years -- with Security National Bank?

A Nine years plus.

Mr. Dowd and Mr. Clifford hired me as an Assistant Vice President. I was promoted to the rank of Vice President. I was subsequently promoted to the rank of Administrative Vice President which is where I found myself when Chemical Bank made me a Vice President.

Q Did you run any particular branch of Security National Bank?

A Yes, sir.

Q What branch was that?

A Melville Branch.

Q Now, during the time you were with Security National Bank were you aware of the fact that there was a political donations club in existence?

A I was.

Q Were you aware of the fact that certain people who were members of the club received raises to help them?

A Yes, I think I was aware of that.

Q And prior to 1973 were you ever asked at any time to become a member of the club?

A No, sir, I was not.

Q I want to direct your attention to some time in 1973. Did you have a conversation with --

MR. NAFTALIS: Withdrawn.

Q Do you know a man named Joseph Stefan?

A Yes, I do.

Q What title does Mr. Stefan hold in 1973?

A Executive Vice President.

Q He held that position after the retirement of Mr. Powell; is that correct -- he succeeded Mr. Powell as Executive Vice President of the bank?

A Yes, sir.

Q In 1973 did you have a conversation with Mr. Stefan regarding political contributions club?

A I did, sir.

Q What did Mr. Stefan say to you?

A Mr. Stefan called me from my office on the first floor to his office on the third floor. His office was situated between the President and Chairman of the Board. The then President was Mr. Rex Johnson and Chairman of the B dwas Mr. Pat Clifford.

He pointed to Mr. Johnson's office and said, he asked me to call you up. You're one of Pat's boys. We'd like you to join the club.

Q And what did you say? Did you agree to join?

A I agreed to join it.

Q And it was your choice to join? It was a voluntary decision?

A It was voluntary.

Q Did Mr. Stefan say anything at that time about you receiving a salary raise?

A Yes, sir. He mentioned I would receive a raise.

Q Did you make any contribution after this conversation with Mr. Stafan?

A Yes, sir -- one and only one.

Q And did there come a time -- did you ever receive the raise Mr. Stefan promised you?

A No, sir, I did not.

Q And did there come a time after making this one contribution when you indicated that you no longer wanted to participate?

A Yes, there did. very shortly thereafter.

Q And you no longer -- aside from that one contribution you made no further contributions to the club?

A No, sir.

Q After you declined to participate in the political contributions club did anything happen to your career in the bank?

A Yes, sir.

A 1581

Q What was that?

A I was promoted to Administrative Vice President and I was subsequently given a $5,000 raise.

Q Now, during the years that you know Mr. Clifford have you become familiar with Mr. Clifford's reputation for honesty, integrity, truthfulness and law-abidingness?

A Yes, indeed.

Q Tell us what that reputation is.

A That would take me an awfully long time but to try and summarize Mr. Clifford, his honesty, his integrity his ability, his humanity were beyond reproach. They were of the highest -- in my esteem I consider him one of the finest people with whom it has ever been my pleasure to be associated.

May I amplify on that?

Q You can amplify all you want.

A Mr. Clifford, for example -- well, it was my pleasure -- a minority bank in Hempstead called the Vanguard National Bank and Mr. Clifford sent the initial officers of that bank to my --

MR. KATZBERG: Objection.

The question is as to his character and reputation. That's the only answer called for.

THE COURT: I suppose he wants to tell us a little more about his business ability.

A 1582

THE WITNESS: Yes, sir.

THE COURT: That's not really an issue here.

THE WITNESS: I am trying to point out Mr. Clifford's character.

He espoused every possible charitable, economic, religious and every type of cause supporting a minority bank, Catholic Charities, UJA, Boy Scouts, North Shore Hospital -- I'm trying to answer your question, sir. That's all I am trying to do and I am trying to do a good job of it.

Q You mentioned you had a conversation with a man named Joseph Stefan.

A Pardon me?

Q You mentioned you had a conversation with a man named Joseph Stefan.

A Yes.

Q And did you become familiar with Mr. Stefan's reputation for honesty --

MR. PATTISON: Objection.

MR. NAFTALIS: Hearsay declarations are in evidence --

THE COURT: I will sustain the objection.

MR. NAFTALIS: Can we mark this as the next defendant's exhibit? This two-page document.

THE CLERK: Document marked for identification as Defendant's Exhibi DDD and EEE.

(So marked.)

MR. NAFTALIS: Can we mark them one exhibit and staple them together?

THE CLERK: Document marked DDD for identification.

(So marked.)

Q Mr. Sisti, let me show you a two-page document which has been marked as Defendant's Exhibit DDD and I ask you, sir, if this two-page document reflects the salary raises and promotions you received from the beginning of the time that you went to the bank in 1966 through 1974.

(Document handed to witness.)

(Pause)

A Well, yes -- combined they do, yes, sir.

The most recent increase -- the two most recent increases were not posted -- an increase here (indicating) and cost of living adjustment.

Q Are they reflected on this card?

A Yes, sir.

Q Which is the second sheet --

A The second sheet I received a $5,000 increase in December of 1973 -- that's not reflected here -- and a $1,000 cost of living adjustment.

Q In other words, the second sheet accurately brings up to date the information on the first sheet; is that correct?

A Correct.

MR. NAFTALIS: We offer it in evidence.

MR. BANNIGAN: No objection.

MR. KATZBERG: No objection.

THE CLERK: Defendant's Exhibit DDD previously marked for identification now received in evidence.

(So marked.)

MR. NAFTALIS: Thank you.

Q Now, I think you indicated that you declined to participate in the contributions program around what month in 1973, do you recall?

A I was asked in May and I believe that it was within a week -- I can't really recall the exact time frame parameters.

Q May or June, is that fair to say?

A May or June; correct.

Q And your card reflects that in September after your refusal to participate you were promoted to Administrative Vice President?

A That is correct.

Q And it reflects, does it not, that in

September of 1973 you received a $5,000 raise?

A That is correct.

MR. NAFTALIS: I have nothing further.

THE COURT: Any questions?

MR. COHN: May I just ask one question, your Honor?

CROSS-EXAMINATION

BY MR. COHN:

Q. Mr. Sisti, you and I have never met, have we, sir?

A No, sir.

Q I'm David Dowd's lawyer.

You knew David Dowd at the bank, did you not?

I certainly did.

Q Did you have an opportunity to discuss with other people in the bank David Dowd's general reputation for honesty, integrity, truthfulness and law-abidingness? Have you , sir?

A Will you repeat the question?

Q Did you have a discussion with other people at the bank as to David Dowd's reputation for honesty, integrity, truthfulness and law-abidingness?

A There was never any question as to his reputation

Q What was his reputation?

A It was beyond reproach.

MR. COHN: Thank you.

CROSS-EXAMINATION

BY MR. KATZBERG:

Q Good afternoon, sir.

A Good afternoon.

Q I believe you told us on direct examination with Mr. Naftalis that Mr. Stefan was the one who asked you whether or not you wanted to contribute; is that correct, sir?

A That is correct.

Q Was he your boss at that time? Did you report to thim?

A Did I report to Mr. Stefan?

Q Yes.

A Everybody reported to Mr. Stefan.

Q Including yourself?

A What do you mean? Would you define your terms, sir? He was the executive vice president of the bank. As such, he had the right to call before him, as a senior officer, any and all officers of rank below him. Therefore, in that sense, I reported to Mr. Stefan.

Q You were certainly below him in rank; correct?

A Certainly.

Q In the reporting system at the bank at that time, June, 1973, who was your immediate superior? Who did you report to principally?

A June of '73. May I think on that for a moment?

Q Certainly.

(Pause.)

A Well, this is a difficult question because I was the administrative vice president or vice president in 1973 -- whichever date comes earlier -- of the headquarters, administration branch. As such, I was subjected to -- and should have gotten some battle pay I might add -- all of the senior officers of the bank. Okay?

Q You don't recall who you reported to in 1973?

A I reported to branch administration, certainly.

Q And who specifically, sir?

A In what matters -- credit operations, administration --

Q Any matters.

A Administration, I reported to Mr. Wulffleff or Mr. Burke -- I forget who was there at the time -- but it would be the branch administrator and Mr. Stefan.

In matters of credit I reported to Mr. Brooks and to Mr. Vandermark.

Q Now, Mr. Stefan told you that you would be receiving a raise, a specific raise to compensate you for the

political contributions; is that correct?

A That is correct.

Q What was the amount of that raise?

A He didn't mention any amount. He told me I would get a raise to compensate me for it.

Q For contributions of $100 a month plus the taxes on the increase; is that correct?

A I'm trying to be -- I'm under oath and I'm trying to be accurate.

I don't recall that that was his specific statement but I presume that that was probably accurate.

Q In substance?

A In substance.

Q And you agreed to participate at that time -- you agreed to participate?

A I agreed.

Q And thereafter you told us on direct examination that you made one contribution; is that correct, sir?

A That's correct.

Q And who was the contribution to; do you recall?

A Yes. I have the check here. Would you like it?

(Document handed to Government counsel.)

MR. KATZBERG: This is a check dated May 23, 1973, and I ask that it be marked.

MR. NAFTALIS: No objection.

MR. COHN: It can go into evidence as far as I am concerned.

THE COURT: Put it in evidence.

THE WITNESS: You asked me --

THE COURT: No, no, no. There is no question.

THE CLERK: Check marked in evidence as Government's Exhibit 182.

(So marked.)

Q I show you what has now been put into evidence as Government Exhibit 182.

That is a check, is it not, drawn by you to the committee for Abraham Beame?

A Yes.

Q It is dated May 23, 1973?

A Correct.

Q And it is for $100?

A Thatis correct.

Q Who told you or who asked you to write that check, sir?

A I received a telephone call from Mr. Chadwick.

Q Arthur Chadwick?

A Arthur Chadwick.

Q And he told you who to write the check out to

and the amount?

A That is correct.

In retrospect, that would -- I didn't get down from Mr. Stefan's office five minutes before I got the phone call.

Q You got the phone call right away?

A It felt that way. Okay?

Q Thereafter you refused to make any more contributions and you withdrew your participation?

A That is correct.

Q Who did you notify?

A I went to the assistant -- I forget if he was branch administrator or assistant branch administrator at the time -- Mr. John R. Fretz, and I pleaded economics. I don't recall my exact conversation but I did not want to be a party to this and I felt that that was the nicest way to get out from under it.

Q By pleading economics?

A That's right.

Q Even though you were promised that you would receive additional money and a salary increase to pay for the contributions and taxes so in essence they wouldn't cost you anything?

A I didn't hear the question. I'm a little hard

of hearing.

Q I'll try to amplify my voice as best I can. I will get closer.

You told us Mr. Stefan told you that you would receive additional salary increases to pay for the contributions --

A Correct --

Q (continuing) -- so, the contributions in essence, would cost you nothing?

A That is correct.

Q And you told us that you went to Mr. Fretz in order that you be relieved of making the contributions by telling him you couldn't afford to make the contributions economically --

MR. NAFTALIS: He testified that he never received a raise and that he went --

THE COURT: Continue.

Q Is that correct?

A That is correct.

Q You told us that you felt that that was the most graceful way of getting out, so to speak; is that correct?

A Yes.

Q No, since you -- since the contributions were not going to cost you anything could you tell us why you declined to participate, sir?

A Certainly.

I did not get the raise and I wasn't about to produce any money because I didn't -- I'm not taking bread and butter off my children's table for this type of thing.

Q Didn't Mr. Stefan promise you the raise?

A Yes but Mr. Stefan was known to make statements on which he didn't follow through --

MR. KATZBERG: Objection. Not responsive.

MR. COHN: He asked the question.

THE COURT: It is responsive.

Q Did you go to anybody to ask why you did not get the raise?

A No. I simply pleaded economics to get out from under this thing.

Q When for the first time did you find out you were not getting a raise?

A What's your name, sir?

Q Excuse me?

A Mr. Prosecutor, when you get a raise and you're on a computer the numbers suddenly go up. Mine didn't.

Q When for the first time did you realize that your numbers didn't go up?

A My numbers didn't go up ever except as testified to in previous testimony. When did I realize that?

Q Yes sir.

A I guess probably the pay period immediately after this conversation.

Q Did you go to Mr. Stefan and say to him, What happened to my raise?

A I did not.

Q Did you go to anybody at the bank and say, What happened to my raise?

A No, I did not.

Q You made the contribution of $100?

A Yes sir, out of my own pocket and my own personal money.

Q Did you go to Mr. Stefan and ask for the $100 back?

A No sir, I did not.

Q Did you go to anybody?

A No. It's my right as vice president of the bank, for the good of the bank, to make a contribution.

Q The answer is you didn't do it?

A Do what?

MR. NAFTALIS: Objection.

THE COURT: He answered.

Q You didn't do it?

MR. NAFTALIS: Your Honor, I thought you sustained

the objection.

THE COURT: He answered.

Q Did you have any other reasons for declining to participate other than what you called economic hardship, sir?

A I can't recall.

Q Well, give it a few moments and think back as best you can.

MR. NAFTALIS: The question has been asked and answered and he doesn't recall any other reasons.

THE COURT: Let him think about it.

MR. NAFTALIS: Okay. I'm sorry.

THE COURT: Now that you thought about it can you recall any other reason?

THE WITNESS: Well, your Honor, it was economics.

THE COURT: That's his answer. He says it was economic.

Q Purely economic?

THE COURT: That's what he says.

Q Is that correct?

MR. NAFTALIS: Your Honor --

THE COURT: Don't press it. That's what he said.

A If he wants some clarification as to the reasons

for the economics I will be glad --

THE COURT: Mr. Sisti, there is no question right now. Wait for the next question.

Q Did you ever speak to anybody else about your not wanting to participate other than Mr. Fretz?

A Did I ever speak to anybody else about my not wanting to participate? Yes.

Q Who was that?

A My wife.

Q I mean at the bank, sir.

A In the bank?

Q Yes.

A Yes.

Q Who was that?

A Mr. Pavlicos.

Q Anybody else?

A No. I felt that I had brought it to the proper authorities attention.

Q Now, you said on direct examination, did you not, that you were aware that other officers at the bank were making these contributions; is that correct, sir?

A That is correct.

Q And you were aware, were you not, that a good number of other officers were making contributions; is that

correct?

A Would you be precise -- when you say "good number" what is a "good number"?

Q More than ten.

A I can't say that I was aware of that. Okay? I knew a number of officers and I didn't count them with specific Arabic numerals. I knew a number of officers were contributing.

Q Did you know that a number of those officers were given salary increases for the purpose of making contributions?

A I know that on hearsay only.

Q Whose hearsay is that, sir?

MR. BANNIGAN: Objection.

THE COURT: Sustained.

Q Which of the people at the bank do you know were making these contributions?

A Which of the people in the bank did I know to be making these contributions?

Q Yes sir.

A May I have some time to think about that, please?

Q Take as much time as you like, sir.

(Pause.)

A Well, let's put your question into a time frame.

Q 1973.

A At that time you want me to tell you which officers of the bank I knew to be making contributions?

Q Correct.

A I have to reply that at that time I canno recall any specific officers.

Q How about in 1972?

A I was not aware, I don't believe, at that time, of the existence of this thing.

Q When for the first time did you become aware of the existence of what you call "this thing"?

A I became aware of it but if you ask me to delineate a specific time I can't tell you because I can't recall.

Q No recollection at all?

A Well, it's like when you learn something new. When you were in the fourth grade and you learned that nine times nine is eighty one, if I were to ask you on what date, at what hour did you learn that nine times nine is eighty one -- I'm not trying to avoid your question. I am trying to be candid.

I really became aware of it at what exact point

in time I can't tell you, honestly.

Q Let's see if we can help you;okay?

A Okay.

Q You knew about it when Mr. Stefan approached you in 1973?

A Correct.

Q You told us on direct examination that before that time you were aware of the contributions and the people making the contributions; isn't that correct, sir?

A On a hearsay basis, yes, I think I was aware in 1973.

Q So, getting back to my original question in this area, sir, in 1973 which officers to your recollection were contributing?

A I again have to say to you that my knowledge of this was based on hearsay and so to delineate it to a specific officer at that point in time I can't recall.

Q No recollection at all?

A I knew that this thing was -- you know -- going on but recollection of specific individuals -- I didn't keep any records here of who or when or what was contributed and to whom.

MR. KATZBERG: I have nothing further, your Honor.

A 1599

THE COURT: Anybody else?

MR. RYAN: No questions.

MR. NAFTALIS: I have one, your Honor.

REDIRECT EXAMINATION

BY MR. NAFTALIS:

Q In response to Mr. Katzberg's question you pointed out that you declined to continue to participate because of economic problems.

Tell us what those problems were.

MR. PATTISON: Objection and I ask to approach the bench.

THE COURT: I will sustain the objection.

MR. NAFTALIS: It was an area that was gone into.

THE COURT: No. He asked if there were other reasons so it is limited.

I will sustain the objection.

MR. NAFTALIS: All right, your Honor, thank you.

THE COURT: You may step down. Thank you.

Next witness.

MR. NAFTALIS: May I approach the bench for one moment?

(Side bar discussion between Court and counsel as follows:)

A Yes, I have come to know that reputation and that the reputation is an outstanding reputation, is a reputation that is outstanding in the defined banking commercial community in which I came to know him first, but even beyond that community, a reputation which is one of the highest regard in relationship to the characteristics that you have asked about and described.

MR. NAFTALIS: I have nothing else, your Honor.

THE COURT: Any questions?

MR. PATTISON: No.

THE COURT: Thank you. You may step down.

(Witness excused)

MR. NAFTALIS: Mr. Clifford calls John McNierney as his next witness.

J O H N Mc N I E R N E Y, called as a witness, having been duly sworn by the Clerk of the Court, testified as follows:

DIRECT EXAMINATION

BY MR. NAFTALIS:

Q Mr. McNierney, try and keep your voice up.

A Yes, I shall.

Q If you can't hear any of my questions,

A 1601

please ask to have them repeated.

Mr. McNierney, what do you do for a living, sir?

A I work for the Chemical Bank.

Q Prior to working for the Chemical Bank-- Withdrawn.

When did you start with Chemical Bank?

A When we were merged, when they took us -- when they bought us out.

Q When you say "us," you mean Security National?

A Security, correct.

Q How many years, sir, have you been in banking?

A Thirty years.

Q Can you tell us, sir, the banks that you have worked for over those years.

A Which way do you want me to start?

Q Start from the beginning.

A I started in '46 with First National; '51, with Central National Bank of Yonkers; '52 was taken over by County Trust of White Plains and in '55, Federal Reserve Bank of New York until August of '65, when I came to Security.

Q You mentioned you were with the Federal Reserve Bank.

A That's correct.

Q What was your position with the Federal Reserve Bank?

A Bank examiner.

Q A man who went around to examine banks to see they're complying with the law?

A Yes.

Q Now, when did you join Security National Bank again? I missed that.

A On August 30th, 1965.

Q What position did you hold in the Security National Bank at the beginning, and what positions did you subsequently get?

A I came in then as an assistant vice president in August of '65 and remained that -- I don't know whenever I made vice president. I don't know when I made vice president. I don't remember when I made vice president.

Q I want to ask you, sir, did there come a time--

MR. NAFTALIS: I want to mark this as the next exhibit.

MR. KATZBERG: It's already marked as a Government exhibit.

MR. NAFTALIS: It's not in evidence.

Mark it as the next defendant's exhibit, please.

THE CLERK: Document marked for identification as Defendants' Exhibit EEE.

Q Let me show you what's been marked, Mr. McNierney, as Defendants' Exhibit EEE for identification, and looking at that, sir, will that refresh your recollection about when you were named as a vice president of the bank (handing to the witness).

A 1968.

Q December 2nd, '68?

A Correct.

Q Thanks a lot.

I'm going to ask you, sir, did there ever come a time when you had any conversation with anyone regarding the making of political contributions?

A None.

Q Were you ever asked to make any contributions by anybody?

A I was asked-- Not in a direct basis.

Q Tell us how it came to be that you were ever a asked to participate in a program. Did someone talk to you?

A Yes, they did.

Q Do you recall who it was?

A I unfortunately do not.

Q Do you remember approximately when it was?

A No, I do not.

MR. NAFTALIS: If we could mark this as the next defendants' exhibit for identification.

THE CLERK: Document marked for identification as Defendants' Exhibit FFF.

(So marked)

Q Mr. McNierney, I show you what's been marked as Defendant's Exhibit FFF, which is a check drawn on your account dated February 3rd, 1971 (handing to the witness). Does that refresh your recollection as to approximately when you had a conversation?

A Yes-- Well, it was before this.

Q Sometime--

A Not much before it.

Q Sometime shortly before this?

A Right.

Q Do you recall what you were told, what anyone asked you about making contributions in this conversation?

A No, only that -- would I at any particular time, you know, volunteer to donate contributions; that's all.

Q Did you agree?

A Yes, I did.

Q Did you consider your participation to be voluntary?

A Strictly.

Q Did you feel you had a choice to say yes or to say no?

A Yes.

Q Was any compensation that you received at or about that time specifically tied in to your making of contributions?

A Not at that particular time.

Q Did you then begin making contribusions, sir?

A Well, whenever that check was written.

Q Did you receive phone calls from a man named Arthur Chadwick who had asked you to make contributions from time to time?

A Yes.

Q What was the source of the means from which you made the contributions? Whose money was it?

A The money I got paid from the bank.

Q Your own money?

A Yes.

Q Did there come a time, sir, when you had a serious physical problem?

A 1606

A Yes, on August 30th I suffered a cerebral hemmorhage.

Q Were you out of work for a considerable period of time?

A Yes, I was out full time from August until February when I returned on a part-time basis.

Q During the period of time when you were out of the bank, when you were ill, did you make any contributions to the program--

A None whatsoever.

Q Did anyone ask you to make up the contributions?

A Never.

Q Did you use the salaries that you received during that period to meet your various personal, medical, family and other needs?

A I did.

Q You know Mr. Clifford for a number of years?

A (No response)

Q Is that fair to say?

A Since 1966 when he came into the bank.

Q Did you come to know his reputation for truthfulness, honesty, integrity, law abidingness?

A Yes.

Q Can you tell us, sir, what his reputation is?

A I can be just very simple. He's quite a guy.

MR. NAFTALIS: I have nothing else, your Honor.

THE COURT: Any questions from anyone?

MR. KATZBERG: Just a couple, your Honor.

CROSS EXAMINATION

BY MR. KATZBERG:

Q Good afternoon, sir.

A Good afternoon.

Q Mr. McNierney, did you come to learn at around the time you were first asked to make these contributions that part of a salary increase that you got in early 1971 was to compensate you for the cost of those contributions, sir?

A I don't understand what you mean by that.

Q I'll try to rephrase it for you, O.K.?

A Yes.

Q You said that you began to make contributions in early 1971; is that right?

A Correct.

Q You don't remember who asked you to make them?

A Right.

Q But you started to make them; is that right?

A Yes, I was asked to make them.

Q Fine, sir.

Now, at around that time did you learn that you had received a salary increase, part of which was to pay you for the contributions?

A No.

Q Mr. McNierney, sir, do you remember in October of 1974 you spoke to the FBI about this?

A Right.

Q Do you remember they asked you questions about this?

A Yes.

Q Let me see if we can refresh your recollection. I would like you to look at the sentence that I've underscored here with a pen (indicating).

I would like you to read that, sir--

THE COURT: To yourself.

Q --to yourself, I'm sorry, and tell us whether or not your reading that refreshes your recollection that there came a time in early 1971 when you learned that part of a raise that you had received at that time was for the purpose of making these contributions.

A I would say yes.

Q Yes--

A If I understood you correctly.

Q Yes.

In other words, there came a time in early 1971 when you got a raise?

A Yes, I got my annual raise.

Q It was $4,000, you remember that, sir?

A That's correct.

Q There came a time when you learned that a portion of that $4,000 was being given to you to compensate you?

A Right.

Q For the cost of those contributions?

A Correct.

Q Is that correct?

A Correct.

Q Thank you, sir. The rest was merit, what you earned?

A Yes.

THE COURT: Are you finished?

MR. KATZBERG: Just one second.

Q The checks--

MR. KATZBERG: Mr. Naftalis, do you have the envelope, please.

MR. NAFTALIS: Yes, I do.

A 1610 McNierney-cross

MR. KATZBERG: Thank you.

Q The checks, for the record, which are contained in Exhibit 145 are the checks that you wrote; is that correct, pursuant to these contribusions (handing to the witness)?

MR. NAFTALIS: Mr. Katzberg, did I give you back the other one I marked separately? You apparently want the first check. I think you want it.

A This is not mine (indicating).

Q That's Harold Guthlein.

A These are all mine (indicating).

Q Thank you very much.

You wrote those checks based on a telephone call from Arthur Chadwick; is that correct, sir?

A Yes.

Q He would tell you who to draw the check to, what amount, is that correct, sir?

A He would tell me -- He would ask me--

Q He would ask you, "Would ycu write a check to ABC for $100."

A Correct.

Q And you would follow the instructions and write the check that way?

A 1611

A Yes.

Q And then you would sent it to Mr. Chadwick?

A Yes.

MR. KATZBERG: At this time the Government would offer into evidence Exhibit 145, the check as well as what has been relabeled as Defendants' Exhibit EEE for identification.

MR. NAFTALIS: No objection.

MR. BANNIGAN: No objection.

MR. COHN: No objection.

THE COURT: You may step down, sir. Thank you.

Any other witness?

MR. NAFTALIS: Yes, your Honor.

Mr. Clifford calls Robert Burke as his next witness.

THE CLERK: Government Exhibit 145, previously marked for identification, now marked into evidence.

(So marked)

THE CLERK: Defendants' Exhibit EEE, previously marked for identification now marked into evidence.

(So marked)

ROBERT M. BURKE, called as a witness, having been duly sworn by the Clerk of the Court, testified as follows:

THE CLERK: Full name.

THE WITNESS: Robert M. Burke, B-u-r-k-e.

DIRECT EXAMINATION

BY MR. NAFTALIS:

Q Mr. Burke, in a good, loud voice so everyone can hear, can you tell us what your present occupation is.

A I'm a vice president with Chemical Bank.

Q Prior to working for Chemical -- Withdrawn. How many years have you been involved in banking or in working with financial institutions?

A Thirty-four years with the exception of four years for military service.

Q Which banks have you been with prior to Chemical?

A I was with the National Bank of North America, Florida Commercial Banks, and Security National Bank and eventually now Chemical.

Q When did you come to work for the Security National Bank?

A January, 1973; however, I didn't start until February 1st. I made my arrangements to leave Florida and come with Security National Bank and I think the date I

started was February 5th.

Q What was your title when you came to the Security National Bank?

A Senior vice president.

Q In any particular area?

A Yes, I was branch administrator, which was running the branch system in Nassau and Suffolk County; also had business development and eventually relinquished the branch administration for business development and public affairs department.

Q Who hired you to come to Security National Bank?

A Mr. Clifford and Mr. Johnson, who was the president at that time.

Q That's Rex Johnson?

A Yes, Rex Johnson.

Q I want to direct your attention to a period of three or four months or so after you came with the bank. Did you have any conversation at that time with anybody on the subject of political donations?

A Yes, it was a couple of months after I was with the bank that I was at a very informal luncheon in our company cafeteria in the bank, and after lunch returning to our office in the elevator, both Mr. Johnson and

Mr. Stefan mentioned to me that political contributions were being made by some of the officers and would I consider doing the same, which I said yes, I would do it.

Q Was your agreement to participate in the making of political donations, was that on a voluntary basis?

A Positively.

Q Did you have a choice to say yes or no?

A Positively.

Q This was based on a conversation you had with a man named Rex Johnson and a man named Joseph Stefan?

A That is correct.

Q Mr. Johnson was the president at that time and Mr. Clifford was--

A That is correct.

Q Did there come a time when you did in fact make donations?

A Yes.

Q Did you receive telephone calls?

A Yes, I received a call from an Arthur Chadwick who would request a check, tell me who the check should be made to the order of and if I was so fixed at that particular time I would send a check, inter-office mail, to him at his office. If not, I would ask him to hold it off until I could send him one.

Q What was your understanding, sir, as to the purpose of making these donations?

A Well, political contributions, in my particular area of business development was more to get out to see the business community who attended these affairs. My whole purpose was to do business and get into business development and meet customers, retention of accounts and acquire new accounts if I could do so.

Q Did you go to many dinners?

A Yes, quite a few, most all of them. That's my job.

Q What would you do at these dinners?

A I would meet most of the business people, go around. My job was to mingle and greet our customers, speak to prospective customers, and try to develop new business for the bank.

Q Did that in fact happen?

A Oh, yes.

Q Would you say from the standpoint of a business point of view, certainly the price of the ticket was worthwhile from a business point of view?

MR. KATZBERG: Objection.

A Very much so.

THE COURT: I'll allow it.

Q Excuse me?

A Yes, very much so.

Q Why is that?

A Well, at a dinner such as this where you're meeting hundreds of people, you can meet them in one night. If you're going to meet twenty or thirty of these people out of the total amount of people at the dinner, it would take months and months to make such calls on your own; visiting corporations and contractors and builders and so forth. This way you can meet people and speak to them on a social basis, and get your business done at the same time.

Q Did you ever receive any raise in connection with any contributions you made?

A No, sir, I did not.

Q Were you ever offered any raise?

A No, sir, I didn't-- wasn't.

Q Where did your money come from for any contributions you made?

A Out of my own personal funds.

Q Did you ever have any occasion to speak with Pat Clifford in any way regarding the program?

A Yes, on one occasion at the time I was branch administrator, one of the district administrative officers in charge of a group of branches approached me and stated

that two of the managers that had gone into the political contribution situation had decided that they no longer wanted to be in it because they thought they were going to be reimbursed. I was a little taken aback and said that I didn't understand why they should be of this opinion because as far as I was concerned it was voluntary.

As a result of this conversation, at a senior management meeting, on a Friday afternoon, probably the day or two days after that conversation, with all of the executive officers present at the meeting, due to the fact that I had this problem, I decided this was the place to bring it up, and I brought it up and at that time was the only time I really spoke with Mr. Clifford, who got quite upset over it and said, "By no means should anybody be in this unless it's voluntary," went further to say, "If they're not doing it voluntarily, give them their money back," and they had gotten their money back as far as I'm concerned, or I know, each of them got $100 back.

Q How many years do you know Pat Clifford?

A About fourteen years.

Q You first came to know him when you were a competitor in another bank?

A I was a competitor, yes, for eight years I knew him as a competitor in those days and I left and went to

Florida and still knew him, actually and when I returned I had the opportunity of three positions in New York, and one of them was with Security National Bank and because of Mr. Clifford and Security National Bank, this was the one that I chose.

Q During the years you have known him, both as a competitor banker and senior vice president of this bank, did you come to know Mr. Clifford's reputation for honesty, integrity, truthfulness, obeying the law?

A Positively and it's beyond reproach or I wouldn't have gone with Security National Bank.

MR. NAFTALIS: I have nothing else, your Honor.

MR. COHN: Might I ask Mr. Burke just one question.

CROSS EXAMINATION

BY MR. COHN:

Q You and I have never met, have we?

A No, sir.

Q My name is Irving Cohn. I represent David Doud.

Am I correct, sir, when you came to the bank David Doud had left or was about to leave the bank?

A He had already left, sir.

Q You never knew David Doud at the bank?

A Not at the bank, but I knew David Doud.

Q With regard to the development aspect of the bank that you testified to in response to Mr. Naftalis's questions, this all occurred after you were in the bank; is that correct?

A Yes.

Q From '72 on?

A '73.

Q Is that correct?

A '73.

Q '73, and in '73 you felt that in your opinion the making of these payments for the attendance of these dinners and these political contributions was something in the best interest of the business of the bank; is that correct?

A Positively.

Q Did you feel, sir, as part of the business development branch of the bank and the business development functions of the bank, this was an essential function of that business development?

A Yes, sir.

MR. COHN: No further questions.

CROSS EXAMINATION

BY MR. KATZBERG:

Q Good afternoon, sir. My name is Robert Katzberg. I don't believe we met, have we, sir?

A Pardon?

Q I don't believe we've met, have we, sir?

A No, we never have.

Q You indicated that you came to the Security Bank in early 1973; is that correct, sir?

A That's correct.

Q Your starting salary was $50,000, sir?

A Yes.

Q Your title was what, sir?

A Senicr vice president.

Q You told us, sir, that the contributions that you made and your attendance at these dinners and these functions was for your purpose at least to meet clients and attract new business; is that correct, sir?

A For my purpose as an officer of the bank for the bank as well, yes.

(Continued on the next page.)

JB fols

Q And, of course, you knew, did you not, that the politician or political committee that was sponsoring the event, their purpose was fund raisings, wasn't that correct?

A In some instances, yes.

Q Well, they didn't do this nonprofit, did they, sir?

A No. I would imagine that they all needed money, though. Yes.

Q And the tickets for these dinners were $100 a plate or $150 a plate?

A $50, $100, $150.

Q And sometimes even more, depending on what it was?

A No, I don't remember any more than that.

Q These political committees, as you well knew, were raising funds for their own campaigns; isn't correct, sir?

A For campaigns and keeping their organization going, as far as cash flow, and to be able to exist in many cases.

Q And they exist for the purpose of electing candidates; isn't that correct?

A Yes.

Q You knew that and everybody who went there knew that ?

A Yes.

MR. NAFTALIS: I object to what everybody who went there knew.

THE COURT: All right, he's answered.

Q Now, did there come a time, Mr. Burke, when you learned that officers at the bank who were contributing this money were being salary increases for the purpose of those contributions?

A No.

Q You never learned that?

A No.

Q You never knew that?

A No. I know now.

Q Well, no.

A From reading the papers.

Q During the period of time that you worked in the bank, you never knew that; is that correct?

A No.

Q Now, you referred on your direct examination to two officers --

A On the examination --

Q I'm sorry. I used the jargon term. I apologize.

When Mr. Naftalis was asking you questions --

A Yes.

Q (Continuing) -- you said that there came a time when two officers, to your knowledge, had wanted to withdraw from the contributions club because they weren't getting money for it; is that correct?

A They thought perhaps they should get an increase. That's right.

Q And who were those two people?

A Michael Pavleaka and Robert Pascuzzi.

Q Did you come to learn, sir, that in fact Mr. Pascuzzi was given a contributions increase after he complained? Did you learn that, sir?

A That he gave it after he complained?

Q No sir. I will withdraw it. Maybe I didn't --

A I know they both gave a contribution. Yes.

Q Did there come a time when you learned that Mr. Pascuzzi was indeed given an increase of salary for the purpose of making political contributions?

A No, not to my knowledge.

Q You never heard that; is that correct?

A No.

Q Did there come a time when you learned that Mr. Pavleaka, after making the $100 contribution and not

getting the salary increase, was given his money back?

A They both were given their money back, to my knowledge. Now, I couldn't swear to that, but I was told that.

Q Mr. Pavleaka made a contribution and wanted out, and the bank paid him the amount of money that he had contributed; is that correct?

A Correct.

Q And you discussed this with Mr. Clifford; isn't that correct, sir?

A With the officers of the bank, yes.

Q Right. Now, could you tell us approximately when that meeting was?

A No.

Q Well, it was certainly in 1973? Not before 1973; isn't that correct?

A I think it was after '73. It might have been '74.

Q Late '73, early '74?

A I think '74 because it was a long time after I was there that this happened.

Q I see. You told Mr. Clifford, as you said on your direct testimony when Mr. Naftalis was asking you questions, you told Mr. Clifford about that situation,

about Pavleaka and Pascuzzi; isn't that correct?

A Yes.

Q And that they didn't want to contribute unless they got money for it; isn't that correct, sir?

A Right.

Q Did Mr. Clifford say at that time that no one was being compensated at the bank for political contributions?

A Would you like me to tell you what he said?

Q Could you first answer my question and then I will --

A No, I couldn't say he said that. No.

Q What salary, as best you can recall, what did he say?

A He was very concerned and upset, and actually called down both Mr. Johnson and Mr. Stefan, who he felt might have been the gentlemen that spoke to these two people, and said, by no means should these people be under the impression that this is going to be where they are going to get salary increases. STrictly voluntary. And he hit the table and said, that's the last time I'm going to tell you it's got to be voluntary.

Q No salary increase?

A No mention of salary.

Q That this thing is being run without any salary increase.

MR. NAFTALIS: Objection. That is not what --

THE COURT: That is not what he said.

THE WITNESS: I didn't say that. We weren't talking about salary. We were talking about the $100 donation that each one of these men made. He didn't mention salary.

Q I want to focus on the question of the compensation, the salary raises. All right?

A I don't know anything about salary raises for conpensation.

Q Did Mr. Clifford say --

A I gave these men salaries when they were due as far as their review was concerned. I had to review the salaries.

Q The question is, sir, did Mr. Clifford say that people should not be getting salary increases for the purpose of making contributions, or words to that effect?

A Well, words to that effect, yes. Yes.

Q And that --

A Positively.

Q No question about that?

A Yeah. Because I said that these men will

think they should be getting increases in pay, and -- you see, there is a time when you get increases in pay. There is areview period for everybody. And for these two men to speak to their immediate superior and tell them, "I made a contribution. I just got my salary check and I opened it up and there's no compensation in it for it."

There wasn't to be any.

Q Mr. Clifford said that no one participating in this matter should be receiving salary increases for that purpose.

MR. NAFTALIS: That's not what he said.

THE COURT: That's not what he said. That's true. You're paraphrasing imporperly.

THE WITNESS: I don't know how to answer a question like that.

THE COURT: No, you don't have to answer it. I sustain the objection.

THE WITNESS: Thank you.

Q Did you ever discuss with Mr. Clifford the contributions program wherein he mentioned that certain officers were being compensated?

A No.

Q Did you ever speak to anybody at the bank wherein it was told to you that certain officers were being

compensated?

A I was told quite late when all of this broke in the newspapers by my immediate assistant that this had been done back years ago. Yes.

Q That was the first time you learned about it; is that right, sir?

A Yes.

Q Now, did you play any other role with respect to these contributions other than writing checks yourself?

A No, I did not.

Q No questions about that?

A No.

Q Never spoke to any other officers?

A No, I did not.

Q And asked them if they would be willing to contribute?

A No.

Q Never offered any officers raises for that purpose?

A No sir.

Q By the way, at whose direction was Mr. Pavleaka and Mr. Pascuzzi repaid for those contributions?

A At whose direction?

Q Yes sir. If you know.

A Mr. Clifford to Mr. Stefan.

Q So essentially it was Mr. Clifford's direction that those people be repaid?

A Yes.

Q Out of bank money?

A Yes. I would imagine so. Yes. Give them their money back.

MR. KATZBERG: May I have just one moment, your Honor?

THE COURT: Yes.

Q Now, you testified that your attendance at the dinners were -- was basically bank business?

A Correct.

Q It was a bank expense, so to speak?

A Yes.

Q Now, was there a system at the bank whereby business expenses like taking the client out for lunch, for example, would be noted and you'd be paid for that, or the bank would pay for those expenses?

A Yes.

Q Now, to your knowledge, were any of the tickets or any of the expenses with regard to these dinners, was there any way that the bank was paying for

those business expenses as well, sir?

A No. The dinners strictly were for bank personnel, as far as I was concerned. If I got a ticket to go, I went.

Q So even though it was the way you described it, it was a business purpose, it wasn't treated like the other business expenses were in terms of vouchering; is that correct?

A No. We'd get a ticket to go to an affair. And the reason I would go to an affair would be to try to do some business.

Q It wasn't treated as a business expense; is that correct?

A No. You mean make another voucher for $100?

Q Yes.

A No. The check was your contribution.

MR. KATZBERG: Thank you, sir. I have nothing further.

THE COURT: All right. Any other questions? All right, thank you.

MR. NAFTALIS: Your Honor, I may have one. Just one moment, please.

THE COURT: All right, he has one.

MR. NAFTALIS: No, I have nothing.

THE COURT: All right, you may step down. Thank you.

(Witness excused.)

MR. NAFTALIS: May we approach the bench for one moment?

THE COURT: Yes.

(The following took place at the side bar.)

MR. NAFTALIS: Your Honor, I miscalculated the timing of our witnesses. I have run out of witnesses. I thought by having these five substantive character witnesses, that it would take us through the day: Certainly in the morning it seemed so because we were moving rather slowly. But in the afternoon we moved much more quickly. I'm sorry to inconvenience the Court.

THE COURT: All right. We will have to recess until Monday morning.

MR. NAFTALIS: Thank you.

(End of side bar.)

THE COURT: All right, we have proceeded much more rapidly than we thought we would and there are no other witnesses left for today, which means we will terminate for the day and we will go over to Monday morning. I will not bring you in on Friday.

So we will start on Monday of next week. Maybe we can finish the case and maybe we can't. I have no idea. But, in any event, on Thursday and Friday, we will not be working since Thursday is Passover. Thursday is a holiday and Friday is Good Friday. So I think we will respect each other's religious days, and then, come what may after that.

Okay. So don't discuss the case. Keep an open mind.

JUROR NO. 8: What time on Monday?

THE COURT: I think 10:30 on Monday. I have other matters on Monday first.

All right, have a good weekend.

(Whereupon, the jury retired from the courtroom.)

THE COURT: All right, Monday at 10:30.

(Whereupon, an adjournment was taken to Monday, April 12, 1976 at 10:30 o'clock a.m.)

* * *

PATRICK J. CLIFFORD, called as a witness, having been first duly sworn by the Clerk of the Court, testified as follows:

DIRECT EXAMINATION

BY MR. NAFTLAIS:

Q Will you keep your voice up as loud as possible, so that everyone in the Courtroom can hear you?

Where do you live, sir?

A New York City.

Q How old are you?

A I am 63 years of age. I was born November 10, 1912.

Q What is your present occupation?

A I am semi-retired. I have a small office and attempting to do some financial consulting, among other things.

Q When did you go into semi-retirement?

A About March 1, 1975.

Q That was after Chemical Bank took over Security?

A I elected to retire under a pension arrangement with the Security National Bank.

Q Are you married, sir?

A Yes.

Q For how long?

A Thirty-three years.

Q Do you have any children?

A Yes, I have a boy and girl, both grown and both married.

Q Grandchildren?

A Yes, five.

Q Where were you born, sir?

A I was born on Pacific Street in Brooklyn, which is probably walking distance to this building.

Q What did your father do for a living?

A My father worked for the Government. He was a letter carrier and spent 29 years in the building next door to this one, the General Post Office.

Q Did you attend school in Brooklyn, here?

A Yes. I attended elementary parochial school, St. Charles Buonomaio.

Q What did you do after that school?

A I went to high school for a limited time, Manual Training High School here in Brooklyn, about three months.

Q After attending three months of high school at Manual Training, what did you do?

A I stopped going to school. There were eight

children in the family and I guess I probably didn't like school either, and I went to work.

Q Where did you first go to work, sir?

A I worked for a small cigar company called the Singer Building.

I operated -- it was a cigarette named Sano and cigars the same name, and my job was to package them up and bundle them up and deliver them.

Q Did you go to work for a bank after that?

A Yes, shortly after I took this first job, I started in Phoenix Chatham Bank and Trust Company.

Q Keep your voice up, please.

A Yes.

Q Tell us about taking the job with the bank.

A I knew from being in the building, I knew some of the ounger people in the bank and they suggested to apply for a job in the bank, and I did and was accepted.

Q Was that your first job in the bank?

A Yes.

Q What was your position?

A That was May, 1928, and I was hired to be a page boy, it was a job where officers called to have things delivered around the bank.

I never went ahead because the vice-president

in charge of the credit operation of the bank asked me about working in the credit file and went through the alphabet with me and I finally got that job.

Q How long did you remain with the Chatham Phoenix Bank?

A From May, 1928, until some time in 1932, when it was merged with the Manufacturers Trust Company.

Q After the Chatham and Phoenix Bank was taken over by Manufacturers Trust, how long did you remain with that bank?

A I stayed with them until some time in the spring of 1942, when I went into the Armed Services.

Q Was Manufacturers Trust Company bank later known as Manufactuers Hanover Trust Company?

A Yes.

Q What were your positions between '32 and the time you went to the service, the second World War?

A Principally credit work and management of the credit department.

I was assigned to the original main office on Broadway and Sumner Avenue in Brooklyn, and was the assistant manager in line of credit, and I was handling customers on the platform there until I went into the service.

Q Did you serve in the Armed Services during World War II?

A Yes.

Q Were you honorably discharged at the end of the war?

A Yes.

Q Were you in the Air Force?

A Yes, I went in as a corporal up to staff sergeant. I went to Officers Candidate School and went up to second lieutenant and discharged in that capacity.

Q After the war, did you go to work for a different bank?

A Yes, the Franklin Square National Bank in Franklin Square, Nassau County.

Q How long were you with that bank?

A Approximately 20 years.

Q Did that bank later become known as Franklin National Bank?

A Yes.

Q What was your position when you started there in 1946?

A Assistant cashier in the lending areas.

Q What was your position in the end of '65, when you resigned?

A Executive vice-president, director and president of the Metropolitan Division.

Q After you left the Franklin National Bank, who did you go to work for?

A Security National Bank, in Huntington.

Q What was your position there?

A I started effectively on February 1, 1966, as my old bank asked me to give a month to them to break in my successor.

Q Who hired you at the Security National Bank?

A A director headed by Herman Maass, and he was chairman of the board and president.

Another director was Peter Murray, Samuel Spitzbert, and another director whose name escapes me.

Q When you were hired to become president of the Security National, what position did Mr. Maass occupy?

A Chairman and chief executive officer. He was my superior in the bank.

Q How long did Mr. Maass remain as chairman of the board and chief executive officer of the Security National Bank.

A He was there all through '66, '67 and retired some time in '68, probably the middle of 1968.

(Continued on next page.)

2 fls.

Q During these two and a half years that you were associated with Mr. Maass, who conducted the Board of Directors' meetings at the Security National Bank?

A Herman Maass.

Q At the time you joined the Security Bank what was your principal area of expertise experience?

A Commercial lending, business development and also recruitment of officer personnel.

Q Were you a person who had much experience in bank operations?

A Not really. I understood the theory but had very little experience working -- working experience at it.

Q When you came to the Security National Bank was a man named Frank Powell employed there?

A Yes.

Q He had been there for a considerable number of years?

A Yes, many years.

Q What was Mr. Powell's position when you joined Security National?

A I believe Executive Vice President and in charge of operations of the bank.

Q He remained in charge of operations when you came into the bank?

A Yes.

Q Did you have any impression as to his ability as a banker?

A Yes. He had an excellent reputation and I shared it.

Q After you joined Security National Bank did you recruit any officers to come over to Security National Bank to the Franklin National?

A Yes, not only Franklin but many others. I picked and chose many others I thought would be helpful.

Q Why did you do that?

A We were growing rapidly and there was a dearth of managerial material in the bank.

Q Do you recall the names of any people you recruited from Franklin or other banks in early 1966?

A David Dowd came with me almost immediately; Mr. Vincent Garvey, Mr. Roger Lew, Mr. Agnew, Mr. Sly, Mr. David Milford.

In fact, I even had several operating people I introduced to Mr. Powell.

Q You mentioned Mr. Dowd. What position did Mr. Dowd have at the Security National Bank?

A Officially, Senior Vice President, with the authority to lend a certain amount of money and, unofficially,

my assistant because I knew him well and I more or less had been out around the county a lot and I had him take care of the office while I was out.

Q During the years that you served as President of Security National Bank and later as Chairman, what were your principal areas of concern?

A To build up deposits, build up net profits, commercial lending and business development and recruitment of successor management team.

Q During the years when you joined the Security National Bank did it have a large commercial lending department?

A Not really. I thought it was smaller than the average.

Q Was that an area that expanded during your time you worked at Security?

A Yes.

Q What about the bank assets? Do you remember what area they were at around 1966?

A You mean dollar assets?

Q Yes, roughly.

A At the end of 1965 I believe there was $275-280 million dollars range, net assets.

Q During the years you worked in the bank did the

net assets grow?

A Yes. They had about two billion dollars in 1973-1974.

Q What about the earnings of the bank, did they increase over the years?

A Yes, quite a great deal. I think the year had just been completed in 1965 after tax profits, about three million dollars and they reached close to 15 million dollars and exceeded that after taxes in 1973-1974.

Q Did you ever attend a dinner run by a political party?

A Yes, many of them.

Q Were such affairs common in the Long Island area in the 1960s and 1970s?

A Very common.

Q I direct your attention to 1966, when you joined the Security National Bank and ask you at that time that the Se urity National Bank, its officers or directors, did they have any program for purchasing tickets for these political dinners?

A Yes.

Q Tell us what the progr as, to the best of your knowledge.

A The Directors contributed to a program that

turned over to Mr. Maass -- I should explain the Directors' arrangements first --

Q Go ahead.

A They got an annual fee for being a Director and a separate fee for attending a meeting. If they did not attend the meeting they did not get the fee. In 1966 that fee was $75 a meeting and it was increased to $100.

Out of that fee the Directors would give to Mr. Maass or his secretary $50 a meeting in a kitty to buy tickets.

Q You mentioned Directors' fees, did you receive a Director's fee?

A No, no salary officers of the bank who were Directors would receive Director's fees.

Q Did you participate in the Directors' program after you joined the bank?

A Yes.

I saw what was going on, the giving of the money to Mr. Maass and I asked Mr. Spitzbart about it and he said it was a plan to have officers attend political dinners. I volunteered to Mr. Maass to contribute.

Q Where did you get your money that you contributed to the Directors' political fund?

A My salary.

Q Were you reimbursed for the donations you made

to that program?

A No.

Q Did there come a time when there were complaints about the Directors' donation program?

A Yes. A group of Directors complained they did not feel they were getting compensated for attending the meetings because they had to pay a tax and they were donating a good part of it to the political dinners.

Q Did anything happen as a result of that?

A At one point Mr. Maass agreed to raise the fees from $75 to $100 a month.

Q After the fees were increased were there still any complaints?

A Yes, the Directors complained they were not being adequately compensated, not all of them but the same group who raised it at the meetings.

Q Did there come a time that anything happened to the Directors program?

A Yes. I got to know the Directors better and they not only spoke to Mr. Maass but they would cry about it to me.

I said, if you don't want to contribute, let's stop it.

Q Did there come a time when it was agreed that

A 1645

the Directors program be discontinued?

A Yes. We had a meeting and it was agreed the program would be discontinued and I think the date was fixed that we would meet twice a month and that the next meeting I think it was discontinued.

Q During 1967 were there any lawyers on the Board of Directors of the Security National Bank?

A Yes.

Q Do you recall their names?

A John Towas, whose firm was general counsel of the bank, Mr. Spitzbart, and he ran a mortgage company at that time and in January or February of '67 I believe Mr. Shea joined the Board, who was a well-known lawyer.

Q Mr. Shea, Mr. Spitzbart and Mr. Towas, did they participate in the Directors program?

A As far as I know, yes. I thought all Directors did.

Q Did Mr. Shea, Mr. Spitzbart and Mr. Towas ever indicate to you or anybody in your presence there was anything illegal or unethical about the Directors donation program?

A No.

Q Did any of these three lawyers ever indicate there was anything illegal or improper about the Directors

program after the Directors had their fees raised?

A No. I would have to say that Mr. Shea joined the Board after it had been raised. The other two did not say anything to me about it.

Q After the decision was made to discontinue the Directors program, did you have any conversation on this subject with David Dowd?

A Yes.

Q To the best of your recollection what was that conversation?

A The conversation took place after the meeting, I think, and I explained the Directors would no longer buy tickets to political dinners or outings and I told him at the next meeting, that there would be no more contributions for the next meeting after that, I told him.

Q Were there any further conversations?

A Yes.

He and I discussed the possible impact of this and he expressed the opinion that he thought it would hurt the bank in its ability to maintain deposits. I told him I would do what I could with my own pocket. I told him that I would go to the Suffolk County Republican dinner and the same where we had a local strong Republican and Democratic organization, I would go to one state dinner and I asked him

if he would go to one once or twice a year. A 1647

Q Did you have any further conversation with him?

A Yes. Within a week or so, David Dowd came back to me and said he talked to senior officers at the bank about the Directors cancelling out and he indicated that all the senior officers thought it would hurt the bank and they volunteered to contribute to buy tickets.

(Continued on next page.)

Q Did you have any further conversation with Dave Dowd about that?

A Yes. I didn't like the word "volunteer." I told him in my experience, and I was a lot older than he, volunteering was fine as long as everything was going right with an officer. Once it is found that he is getting paid for making loans, that he has his fingers in the cookie jar or that he is making bad loans, that he is not doing his job, and you want to fire him, they are going to forget about the volunteering and they're going to swear that they were retaliated against. I didn't like the idea of volunteering.

Q Was anything else said?

A Dave thought about it and said, "I may have a solution. I think you are right, it's like a general asking a private to volunteer for something."

He said, "We'll keep you and Mr. Maass out of the program and I'll take the responsibility at my level and I do not think volunteering should come up.

Q Was there any other discussion between you and Dave Dowd on the subject?

A Either at that meeting or at a subsequent one, I suggested that we establish some salary basis for officers, that we go around to all the metropolitan banks and see if someone has a plan that we have not thought of. That

we go around and see what everyone else is doing. A 1649

I said, "I am sure that some banks will refuse to talk on the basis of confidentiality, that some are going to be doing things that I did not want to do, such as, playing around with expense accounts, having a printer or checkbook manufacturer or marketing company or public relations company buy the tickets, and giving them to the officers and billing you for additional services."

I didn't want to do that because I knew it was wrong and I said, "There's got to be something that somebody thought of, some bank, which is workable."

Q Did Mr. Dowd agree to do that?

A Yes, and I asked him to report back to me.

Q Did you indicate to Mr. Dowd that you would do anything?

A In what sense?

I indicated that I contributed a hundred dollars a month.

Q Did you indicate that you would speak to anyone about the political donations area that you were talking about with Mr. Dowd?

A I don't think I did. I didn't have the time then or I was extremely busy. I gave him an assignment to do it.

Q Did you have any conversation with Dave Dowd about you speaking to one of the lawyers about it?

A Oh, that is another area. I said, "The main thing is that neither you nor I can do the things I outlined to you, the printers, the public relations people, the phoning up of expense accounts. I got it made, I'm a President of a bank for the first time in my life. I am making a good salary. They can't pay me or you enough to stick our necks out."

I wanted the program cleared by general counsel and I told him that I would speak to Mr. Shea.

Q Did there come a time when you had a conversation with Mr. William Shea?

A Yes.

Q Did you have a conversation with Mr. Shea about this?

A Yes, I had a detailed conversation with him. I told him my fee is --

MR. KATZBERG: May we have a time set, your Honor?

Q Do you recall when this was?

A Within weeks, when the directors agreed to terminate the Directors' contributions. This all took place within 30 days of the meeting when I first talked to Mr. Dowd.

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MR. PATTISON: When was that?

MR. NAFTALIS: They could bring that out on cross.

THE WITNESS: Has to be sometime in '67. I don't remember the month when the Directors ended their contributions.

Q Did you have a conversation with Mr. Shea?

A Yes.

Q What did you state to Mr. Shea and what did Mr. Shea state to you, to the best of your recollection?

A I told him what was proposed in my conversation with Mr. Dowd and I asked him to assign one of his best lawyers to it, and that I'd have Mr. Dowd review the plan with the lawyer and I stressed the fact that I wanted it to be legal and proper, whatever we did here, because neither of us could afford to have it otherwise.

Q What did Mr. Shea say to you?

A He said, "I'll let you know."

He agreed with me on the voluntary thing. I remember him telling me it's very important that you don't coerce your people. I think he referred to the fact that labor unions had been in the papers accused of doing this.

Q Did there come a time when you had a further conversation with Mr. Shea about the subject?

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A A short time later he telephoned me and I met him in person and he told me he assigned it to George DeGenaro and Mr. DeGenaro said something about there being very little law on the subject and that Mr. Dowd should wait until two or three days later, until he did some research and he'd get in touch with me.

Q After you had this conversation with Mr.Shea, regarding Mr. DeGenaro's involvement, did you then speak to Dave Dowd about it?

A Yes.

Q What did you say to Dave Dowd and what did Dave Dowd say to you?

A Word for word, I cannot give you.

Q To the best of your recollection.

A To the best of my recollection I told him to see Mr. DeGenaro, review the plan with him, not put it into effect unless he approved it, to wait whatever time, two, three, four days, until Mr. DeGenaro completed his research.

Q Did Mr. Dowd have any conversation with you regarding the results of any survey he had taken of banks in the area?

A He told me that I was right, that many banks refused outright, so that their handling of political dinners were confidential and refused to confer.

He said, "Others are doing things that you don't want to do, the printers, the expense accounts."

He said, "I did run into an interesting situation at County Trust."

MR. PATTISON: I will object to what Mr. Dowd said.

THE COURT: I will allow it.

A (Continuing) He said that County Trust in White Plains, which was the biggest bank in Westchester, had a Good Government Club or Better Government Club. I could be wrong in the name. Evidently, it was a club approved by the bank's officers, approved by the bank's lawyers, where the bank's officers contributed to this club and tickets were bought.

Q Did you tell Mr. Dowd anything about checking the plan outwith Mr. DeGenaro?

A Yes, I asked him to do it.

Q Did there come a time later when you had a conversation with Dave Dowd after he had spoken with George DeGenaro on the subject?

A Yes, I did.

Q Was anybody else present?

A Yes, that was a conversation in my office in Huntington and Mr. Lew had been there for some time reviewing

some work. We frequently had these chit-chat sessions at the end of the day. Mr. Dowd came in and he said that he reviewed the plan in detail with Mr. DeGenaro and it was approved.

Q What else did he tell you about his conversation with Mr. DeGenaro?

A He told me that it must be voluntary and there can be no coercion and that if anybody wanted to withdraw at any time they had the privilege and we could do nothing to stop them.

Q Was there any discussion in your conversation with Mr. Dowd about salary raises?

A Yes.

Q What did he say about his conversation with Mr. DeGenaro on that subject?

A He said he had taken that matter up, that he thought we would want to give these people salary raises, and as I recall the wording, he said a bank -- or for that matter any corporation -- that it is in their discretion what they paid their officers, with one exception. You couldn't give anybody a raise out of line, but that he should get for his job, that these raises must be permanent raises, they cannot be taken away if the people no longer contribute. You couldn't take the raise away and the raise should have

all the benefits that go along with any raise, such as interest in pension plans, if you get more money, you have a larger interest in the pension plan; if you get more salary, a larger interest in profit sharing, group interest, and various benefits.

Q What did you say to Dave Dowd after he told you this?

A I told him, "Fine."

I think I said, "It's fine. Let's put it into operation."

Q Were you in any way surprised by Mr. Dowd's statement regarding his conversation with Mr. DeGenaro?

MR. PATTISON: Objection.

THE COURT: Sustained.

Q To your knowledge, did Mr. Dowd share this plan with anybody else in the bank?

A Yes, I asked him to talk to Mr. Maass, who was the Chief Executive, and he was satisfied.

Q Did you learn that Mr. Maass had approved the plan?

A Yes, he said he was satisfied. I don't know if he used the word "approved."

Q Now, did you have any conversation around this time about who would be in charge of handling the money?

A Yes.

Q Who did you have a conversation with?

A I had it with Dave Dowd. I said because these funds would belong to the officers, they could not come under the audit of the bank's auditors or the outside auditors. I said, "Dave, you'll be too busy to personally ride herd over this," because I thought he had more important duties around the bank.

I said, "I don't want anybody frightening off any of this money and not having it go for the purpose intended."

I recommended that he have Frank Powell handle the bank money, that he ride herd over it and see that everything is accounted for.

Q Why did you pick Mr. Powell?

A He was the best man in the bank for that job.

Q Did there come a time later when you had any conversation with Mr. Powell on the subject of raises?

A Yes, I did.

Q Was that conversation to the best of your recollection in person or over the telephone?

A I thought it was over the telephone. I thought I was in an office in New York with Mr. Shea and he telephoned me.

Q Do you recall what Mr. Powell said to you and

what you said to him?

A Mr. Powell said that a group of officers had been recommended for $1700 a year raises. I believe he read the names to me and he told me this was done in Mr. Maass' office and that Mr. Maass wanted to be sure I went along with it.

Q These officers that were getting $1700 raises, to your knowledge were they people who would be contributors or had been?

A I understood that.

(Continued on next page.)

BY MR. NAFTALIS:

Q Did you ever conceal from the board of directors the fact that people had been given raises?

A No, sir.

Q Who ran the board meetings in 1966, 1967 and 1968?

A Herman Maass.

Q Who set the agenda as to what would be discussed at the board meetings in 1966, 1967 and 1968?

A Mr. Maass would do it, unless he wasn't there some day, then I suppose I did it.

Q Now, the first raises the people received of $1,700, that would be contributors effective on November 27, 1967. Were you present at the two board meetings that preceded those raises?

A I didn't know whether I was until it was brought out in this Courtroom that apparently I was not at those two meetings.

Q Where do you generally go during the month of November every year?

A I looked it up in my secretary's diary, that I saved, to find out where I might have been and I noticed she had written "Vacation October 23rd to November 20th."

That happens to encompass the period of my

birthday, November 10th, and I was a member of a creditman's organization. I went to their conventions. I have been a governor and they were held around the country. I think I made twenty-one of those conventions in a row, twenty-one years. I know I went to the convention that year. Where it was, I don't know. The reason I know, I didn't have my birthday with my children.

Q Now, after this donation program was started, did you speak to officers and ask them whether they would be willing to participate on a voluntary basis?

A Not for some years, because of the arrangements with Mr. Dowd. He said he was going to keep himself and Mr. Maass out of it. I don't believe I spoke to anybody until sometime around 1971, the end of 1970, when Mr. Dowd asked me to speak to William Lew, Steven Corriss and -- my memory is not too good -- Mr. Wulffleff.

Q Why were you asked to speak to these people? You had not spoken to any other officers and asked them to participate?

A Mr. Dowd said he didn't think he should speak to them because Mr. Lew was senior to him. He may have been executive vice president at that time or was being made executive vice president. Mr. Corriss was the senior vice president on the level of Mr. Dowd and I think Mr. Wulffleff

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was.

Q Did you in fact ask these people to participate on a voluntary basis in the program?

A Yes.

I am not clear as to Mr. Wulffleff. I spoke to Mr. Lew and I spoke to Mr. Corriss.

Q Now, to the best of your knowledge, what were the moneys that the officers put into the donation program? What were they used for?

A I can't say with certainty, because I didn't physically handle the moneys. I am sure most of it was for political dinners or cocktail parties, journal ads. These journals are put out with the dinners.

Q Can you tell us what was the purpose of bank officers purchasing tickets to go to these various political dinners, cocktail parties, and the like?

A For visibility in getting around and meeting people. Some of these dinners had as many as 3,500 people. You'd have every businessman imaginable, every bankers, savings and loan association, savings bank, builders, politicians. It was a great gathering place and you would have ten men at a table and you'd get them around and have them visit with several hundred people, thank the customers, solicit the non-customers, and what-not.

Q When you were at these dinners, were other banks there?

A Oh, yes.

Q And did you attend these dinners for the purpose of influencing the election of a candidate for political office?

A No, I could care less.

Q Did you, Mr. Clifford, make contributions as part of this program?

A I contributed a hundred dollars a month and I made many others outside out of my own pocket. The group seemed to be always broke.

Q Did you receive a salary raise to help you make contributions?

A No, sir.

Q Where did you get the money to make these contributions?

A From my salary.

Q Did you ever lend the political club any money?

A Yes, I did.

Q On how many occasions?

A I believe on two occasions. Once for $2,000, which I recall was paid to me. Another time was for $2,500, which I do not remember being repaid. I am fairly sure it

was not.

MR. KATZBERG: May we have the time, please?

MR. NAFTALIS: You can bring it out on cross.

THE COURT: Why do you say that?

MR. NAFTALIS: I am sorry.

Q Do you remember when those loans were?

A No, not offhand. They were not in present years. I would guess somewhere in the late '60's, early '70's.

Q Did you ever receive any legal profits from these political donation programs?

MR. PATTISON: Objection.

Q Did you ever what?

MR. NAFTALIS: Did you ever receive any illegal profits from the political donations program?

THE COURT: Sustained.

Q Did you ever receive any direct benefits?

A I never received any direct benefits.

Actually, it cost me money.

Q To your knowledge, were any of the funds that the officers contributed, as part of this program, used to purchase postage stamps?

A They were not.

Q Did you ever handle the disbursing of moneys out of the fund?

A Not to my knowledge. I rather doubt that I did.

Q You testified earlier about a directors' program. Who kept the records of that program?

A Mr. Maass' secretary, Miss Reddy. I assume she did.

Q To the best of your knowledge, did you ever examine any of those records that she kept?

A No.

Q When was the first time, to the best of your recollection, that you recall seeing those records?

A In this Courtroom.

Q Now, there came a time in the officers' program that Miss Jaeger kept records. Did you ever see those records during the time she kept them?

A No sir, not until I saw them here in the Courtroom.

Q Then there came a time when Mr. Chadwick kept records of the program?

A Yes.

Q Did you ever examine the records of Mr. Chadwick prior to this trial?

A I have to give you thesame answer. Until I saw them in this Courtroom.

Q Did you ever have any conversation with

Betty Jaeger or Arthur Chadwick as to any of the records they kept for the contributions program?

A No.

Q You testified earlier about some of the officers' contributions were used for journal ads.

Would you tell us what journal ads?

A Advertisements in a journal generally put out by some affair, run by a political organization, or an annual affair by the Republican or Democratic Party, township or whatever it may be.

Q I show you what has been marked as Defendant's Exhibit B for identification. I ask you, sir, is that a typical journal that was put out by a political party at one of their affairs?

A Yes, this is a photostatic copy. It is usually in color and what-not.

Q And this was for the town of Oyster Bay Republican Committee?

A Yes.

MR. NAFTALIS: We offer it into evidence.

(Shown to counsel.)

MR. PATTISON: MAy we approach the bench?

(The following transpired at the side bar.)

MR. PATTISON: We had a ruling on this long ago

in the trial, nothing has changed yet. The only evidence adduced now is that this appears to be a typical political journal. If there is any particular page which he intends to read or show the jury, I think an offer of proof should be made first, as far as that goes.

MR. NAFTALIS: The ruling you made at the time was that we couldn't offer it during the Government's case, but we could during our own case.

THE COURT: Did I say that?

MR.NAFTALIS: At that time I tried to get it into evidence through Mr. Braun. You said if I wanted to offer it, that I should put it in during my case. I think this is relevant.

MR. COHN: May I be heard on this?

I also propose to offer some journals. We might as well get it straightened out now. Since the time that your Honor made that ruling, there was additional evidence from the Government's witnesses, particularly Mr. DeGennaro, who testified that he had no objection to journal ads provided that the journal ads bore a reasonable relationship to the price. I think the defense has a right to show the nature of the journal ads, so the jury can make a determination

as to whether or not they represented political contributions, and were expenditures by the bank. They cannot decide that if they cannot see the journals.

MR. PATTISON: Did the bank take an ad in here?

MR. COHN: Absolutely.

MR. PATTISON: Let me see?

(Document shown to counsel.)

MR. PATTISON: That is not an ad.

MR. NAFTALIS: They were trying to be more legal.

MR. COHN: This is the form that the bank put ads in, because this represented a contribution by the bank. It was part of the political contributions system and this ad was paid for out of the political contributions system.

MR. KATZBERG: How did the bank get anything from it?

MR. COHN: I have a whole series of these and some do have the name of the Security National Bank.

THE COURT: Those are all right. This is not. This is a personal ad.

(The following transpired in open Court.)

MR. NAFTALIS: May we mark this as the next one?

THE COURT: For identification.

MR. NAFTALIS: Yes.

THE CLERK: Document marked for identification as Defendant's Exhibit GGG.

(So marked.)

MR. NAFTALIS: No objection?

MR. PATTISON: No objection.

THE COURT: Mark it.

THE CLERK: Defendant's Exhibit GGG, previously marked for identification, now marked in evidence.

(So marked.)

BY MR. NAFTALIS:

Q Let me show you Defendant's Exhibit GGG in evidence, Mr. Clifford, is this another of the kind of journals that were used at these dinners?

A Correct, this appears to be an original, all gold pages and what-not.

Q And there is an ad in here for the Security National Bank?

A Yes.

Q And there is also an ad for the National Bank of North America?

A Yes.

Q The Hempstead Bank?

A Yes.

Q The Nassau Trust Company?

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A Yes.

Q Franklin National Bank?

A Yes.

Q Long Island National Bank?

A Yes.

MR. NAFTALIS: Your Honor, may I read one part of the journal?

THE COURT: I do not know what you intend to read.

MR. NAFTALIS: One part of the last page.

THE COURT: Show it to counsel.

MR. NAFTALIS: It is in evidence.

THE COURT: Only certain portions are in evidence.

MR. NAFTALIS: My recollection is that the whole document is in evidence.

THE COURT: It was offered for one reason only, Mr. Naftalis, and you know that.

MR. PATTISON: I would object.

THE COURT: Let me see it.

(Document shown to Court.)

THE COURT: I will allow him to read that.

MR. NAFTALIS: Thank you.

Ladies and gentlemen, Exhibit GGG in evidence is

the 1971 annual yearbook for the Town of Oyster Bay, Republican Committee, and you can see there is an advertisement in here for the Hempstead Bank, Security National Bank and other banks. On the last page it says:

"In appreciation we greatly appreciate the response of the advertisements in this annual yearbook. The wholehearted response has been most gratifying. The committee requests that you respond in the same spirit in patronizing our friends whose advertisements appear in this book. Thank you, Town of Oyster Bay, Republican Committee."

(Continued next page.)

BY MR. NAFTALIS:

Q I want to direct your attention to 1966, sir.

Did you have a conversation with anyone on the subject of postage stamps?

A Yes.

Q Who was that?

A Mr. George Barrie, vice-president of the bank.

Q Prior to that, did you have a conversation with anyone from any political organization?

A Yes.

Q Tell us about that conversation.

A I received a telephone call from somebody representing the Arthur Levitt Campaign Committee of New York City.

They asked me would I handle their mailing for them.

Q What did you say?

A I wasn't sure what the mailing was and I explained did they have a list of voters, and addresses, did they want to break up the list, and they wanted us to accept from them, stuffers, envelopes with the campaign information on top, have our girls in the bank type the name and address, put the stuff in the envelope, seal it

and mail it.

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Q What did you say to that?

A I said I am new at the bank, we are very busy and shorthanded and couldn't spare people to do this kind of work.

Finally , I convinced this person that we couldn't handle it. I said we didn't have the people and what-not.

He said at least get us some stamps. He wanted some astronomical amount of stamps and I agreed to $500 worth.

Q What did you do afterthat?

A I looked for Frank Powell in his office. He wasn't there and I saw George Barrie, his assistant in the next office, and I asked George could he get me $500 worth of stamps, and delivered to this man in New York, Sixth Avenue, City of New York, and he said yes.

Q What happened next?

A I got an embarrassing phone call the next day or day after. The fellow said, "Clifford, I thought you promised me $500 worth of stamps."

I said, "What happened?"

He said, "We only got $25 worth."

I called Mr. Barry and said, "George, what

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did you do?"

And he said, "I gave him 500 stamps."

I said, "I meant $500 worth."

I asked him would he deliver the other $475 worth and he said yes.

I guess they were delivered. I never heard any more.

Q Did this conversation with Mr. Barrie and the man from the Levitt Campaign have anything to do with the officer donation program?

A It couldn't have because it wasn't in existence until late '67.

Q After 1966, were yu -- withdrawn.

Q Did you ever have anything to do with stamps in 1966?

A Yes. I was asked to handle mailings through '73 and '74, and I refused. I read something that the bank had to pay its officers at 6 per cent interest, and I realized I shouldn't have done it then and I stopped doing it.

Q After 1966, were you involved in any occasions in any way, shape or form, involving stamps to a political organization?

A I don't believe so. I don't know whether

it ended in January of '67, certainly from 1967 on, no. I think 1966 was the year.

Q Now, what was your understanding, sir, as to the legality of the donations program that existed in the Security National Bank, the officers program that began at the end of '67 and beginning of '68, which lasted through '73, '74?

A My understanding was that it was cleared by the Shea firm and it was legal.

Q What was your understanding as to the most important aspect of the program?

A Everyone stressed voluntary and I knew that was important.

Q Do you know a man named Martin Travers?

A Yes.

Q Did Mr. Travers work for Security National Bank?

A Yes.

Q Approximately when and what was his title?

A He was president of Security National Bank. I think it was 1969, sometime through '71, maybe '72.

Q April or May of '72, would that refresh your recollection as to when he stopped being president?

A Not really. I thought it was through 1971.

It could have been 1972.

Q Did Mr. Travers participate in the officers donation program?

A Not to my knowledge.

Q I direct your attention back to the end of '69, after Mr. Travers came to the bank as president.

Did you ever talk with Dave Dowd about Mr. Travers in the contribution program?

A Yes.

Q Do you recall what you and Mr. Dowd said to each other?

A Mr. Dowd told me he asked Mr. Travers would he like to join with all the senior people, that Mr. Clifford and many senior officers were contributing $100 a month to these political donations and asked Mr. Travers would he join.

Mr. Travers told him that because of his tax bracket, he couldn't afford to join.

Q What did you and Mr. Dowd talk about?

A Mr. Dowd was upset because he said, "You got Mr. Travers attending these dinners and all the other people are buying his tickets."

I said, "He has to attend." He comes from Buffalo and I wanted him to be known in Long Island.

I said, "I wish you wouldn't talk to Mr. Travers again. Remember, you and I discussed at great length voluntary. If he says no, forget the reason, forget that the officers don't like it. Leave him alone."

Q Although Mr. Travers didn't contribute, did he still attend the dinners?

A Yes, many of them.

Q Who paid for Mr. Travers' tickets?

A Specifically, I can't say but I guess we all did.

Q Did Mr. Travers ever offer to you to pay for any tickets that he attended?

A No, sir.

Q Did Mr. Travers ever decline to go to a dinner because he wasn't paying his own way?

A Not to me.

Q Did Mr. Travers decline to become a contributor at the end of 1969? Did he get raises afterthat?

A I am not sure when he declined, I don't recall the date, but it couldn't be too long after he came into the bank.

Yes, he got raises. He started at $75,000 a year which is the second highest salary at the time;

he left his salary was $85,000.

Q What was the basis on which the decision was made to promote people or fired people as far as you were concerned?

A As far as I was concerned on the merit.

Q Did people get promoted who were not participants in the program?

A Yes.

Q Did people get fired who were contributors?

A Yes.

Q Do you remember the names of any?

A Mr. Casey, Mr. Brogan, a chap who ran one of our districts, it was eight or nine.

Q Did you ever try to conceal the fact that the Security National Bank officers had a political donations program?

A No, sir.

Q Did you consider it to be a top secret or confidential matter?

A No, sir.

Q Where was your office when you first joined Security National Bank?

Physically, where did you make your office?

A At the headquarters of the bank on Main

Street in Huntington Village. I was on the ground floor

Q Did there come a time when you were required to spend more and more of your business time in New York City?

A Yes, sir.

Q And why was that?

A I had a large following from my previous banking connection and I didn't want to have these leads so-called prospects, to go cold by not visiting them.

So I had to go around and try to see maybe 7,000 business people that I knew, I had done business with over 20 years.

(Continued on next page.)

Q As a result, where did you spend a lot of your time?

A I spent it by having breakfast in the city and lunch and in coffee shops and in going to dinner with these people, and if they were out-of-towners I met them in motel lobbies and occasionally in hotel rooms.

Q Did there come a time as a result of that that you started having an office in New York City?

A Yes.

Q How did that come about?

A I got to know Mr. Shea quite well and he knew my problems of trying to get people and traveling 120 miles round-trip from Melville and he knew I occasionally brought people in to meet him and finally he said, look, you cannot keep this up; we have an empty office and you can meet them here. We have a phone and a coffee machine and if you need a girl you can have letters done and things like that, and I thought it was a nice gesture and I accepted it.

Q During the years that you were Chairman and President of the bank, how much time would you spend in New York City as opposed to being in Huntington and Melville?

A Well, I would say from the end of 1970 I spent most of the time in the city. After the merger I kept an office on 48th St. I only went to Melville for board meetings out there.

Most of the time in 1971 on in the city and before that maybe half of the time, sometime I would be in my office next to Mr. Shea three or four times a week.

Later we rented some space in an office building on 48th St. and Park Avenue called the Bankers Trust Company, and we had a representative's office where I had an office and some of our senior men also spent some of the time there.

Q You mentioned Royal merger. Tell us what that involved? Was that a different bank that you took over?

A Yes, that was one of the three banks that merged into Security during my tenure. As a bank it had ten or eleven branches in Manhattan and one in Brooklyn and itwas merged with Security in May of 1972, I believe.

Q During the years thatyou were with Security National Bank would you consider the officer's donation program an important matter?

A Not really.

Q Did you yourself spend very much time on it?

A No, very little time except for the dinners. That was a nuisance. I lived in the city and generally these dinners you had to get dressed and wear a tux and frequently it was a husband and wife deal and traveling, particularly out to Suffolk County to these seven o'clock or eight o'clock dinners and coming home at two o'clock in the morning got to

be a nuisance and my wife didn't like the dinners at all, the same type of speeches, and she didn't like the food, either. It is an old story.

(continued next page)

Q What matters did you consider to be important matters at the Security National Bank, during the years that you served as President or Chairman of the bank which occupied your time?

A Basically, building up deposits, building up profits, mergers, new branches, recruitment of good people, specialists, and I also had another thing that happened in the bank which took a lot of my time. There was a block of stock accumulated by a brokerage house that got into the hands of three people successively over a period of some years, Eli Block who is now deceased, who ran United Brands, Chiquita Banana was the brand name. The first one who got a hold of it was the Granite Equipment and Leasing Company, and it was a sizable block. It ran 17 to 24 per cent of the bank's stock. Those people were trying -- they tried to give their paper to the shareholders. They prevailed on me to do this, but I did not like the deal that they were offering and took an awful lot of time between lawyers and investment banking houses as to what to do about it.

Q You mentioned a man by the name of "William Shea"?

A Yes.

Q He was the bank's general counsel?

A His firm was general counsel to the bank.

Q Was he also a director of the bank?

A Yes, he was.

Q A member of any committee?

A Mr. Shea was a member, I know, for most of his tenure, of the audit committee. I think he was a member of the profit-sharing committee, the pension committee and beginning in 1973 of the executive committee. He was active in that.

Q Did Mr. Shea play any role in managing the policy of the bank?

A Everybody liked Mr. Shea, great personality. He was well known and he was an active director and I depended on him a lot. I used to see him quite frequently and I used to throw my ideas at him, to bounce them off him, to see what he thought about them as to bank policy or whatever wewere doing.

Q Did you ever intentionally conceal anything about the Security National Bank from Mr. Shea?

A Not knowingly. I used to tell him the good and the bad, because I had confidence in his judgment.

Q Was Mr. Shea aware of the officers' political contributions program?

A Very much so.

Q Did he ever raise any objection to you at any

time during the years that you knew him about political donations program that the officers had?

A No.

Q Did he ever comment to you whether or not he thought it was a good program?

A He never criticized it.

Specifically, whether he said it was a good program, he probably did, but I can't recall specifically.

Q Do you know a man named Langdon?

A Yes, quite well.

Q What was Mr. Langdon's position?

A He was a senior bank examiner out of the New York office of the Comptroller of Currency and he had a lot to do with the examination of banks on Long Island. I knew him at the Franklin and I saw him at Security.

Q Over the years, did you have any conversation with Mr. Langdon on bank matters?

A I would say hundreds. Primarily on commercial loans.

Q I want you to go to February of 1971. Did there come a time when you had any conversation with Mr. Langdon regarding an anonymous letter that the Comptroller of Currency had received?

A I did.

Q And other than Mr. Langdon and yourself, was anybody else present?

A Yes.

He made the appointment to see me and Mr. Powell came in with Mr. Dowd and the meeting involved the three of us and Mr. Langdon.

Q Did Mr. Langdon show you an unsigned letter?

A He showed me the letter and while I was reading it he told me that the policy of the Comptroller's Office was not to take official cognizance of anything unsigned. He felt that I should note the contents of the letter and asked me to make any comments that I wanted.

Q Did you and Mr. Dowd and Mr. Powell also read the letter?

A I handed it to him and he said that he read it. Mr. Dowd hadn't read it, but he went through it.

Q After reading the letter -- what was the allegation in the letter that you found disturbing?

A There was an allegation in there that William Shea was getting personal legal fees from the bank, that were maybe illegal, and that the fees were being paid to him by the officers and a suggestion was made that had something to do with the Royal merger and the fight that we had with the Abbott Fund, one of those large stockholding blocks.

I realized that I had to tell Mr. Shea about the letter and I was disturbed at what his reaction might be. He was counsel to the bank, I do not think he would like some officer at the bank saying he was a crook.

Q What did you and Mr. Powell and Mr. Dowd tell Mr. Langdon about illegal fees paid to Mr. Shea?

A I said with reference to the comments on Mr. Shea that I think I have an answer, but I have to check with Mr. Powell and I explained to him then that we had a political contributions group. It was a voluntary group that paid in $100 a month, that we bought tickets for dinners and journal ads. I said, "Before I get further into it, I want to find out from Mr. Powell whether we ever paid Mr. Shea a personal legal fee in the bank" and I asked the same question of Mr. Dowd and they both said, "No."

Mr. Powell, who I knew was in charge of bill-paying, not him directly but his staff, said he didn't pay any fee to Mr. Shea individually, that all fees were paid to the law firm of Shea, Gallop, Klimenko and Gould, which was its name at that time.

I then said, "I can answer the question."

MR. NAFTALIS: Keep your voice up.

A I said, "I can now answer the question. It was repayment of a $15,000 loan that Mr. Shea made to the

political contributions group and the checks of $100 apiece that he received, that were made payable to him personally, were repayments of that loan" and I found out from Mr. Powell what the balance was and it was either five or ten thousand dollars left to be paid on it. This was a loan that he had made without a note and without any interest arrangements. No interest was paid as far as I knew. He was trying to help.

Q And did you have any further discussions with Mr. Langdon on the subject of this loan to Mr. Shea that the officers were repaying?

A I told him that I was sure that there was nothing improper in the checks being made to him and he was getting money back that he had advanced the group. I told him also that I was very unhappy when I saw the size of the loan because I felt as chief executive of the bank it was my personal obligation, not legally, but certainly morally.

I think I looked over at Mr. Powell, who I liked to kibbitz with, and I said, "I guess you and I will have to pay it back" and Mr. Powell's mouth dropped open.

Q You indicated that you told Mr. Langdon about a program that you had for making donations at the bank; is that correct?

A Yes.

Q And you indicated that you told him that the

officers made a contribution of $100 a month? A 1687

A Yes.

Q Did you say anything to Mr. Langdon as to whether or not the program was a voluntary one?

A Yes, I pointed out that that was stressed and it had to be voluntary and I told him also the story of Mr. Travers, that he was not contributing because he had indicated to Mr. Dowd that he couldn't afford to do so, due to the fact of his taxbracket, that he goes to the dinners because I wanted him to go to get exposure, and I suggested that he talk to Mr. Travers.

Q Did you say anything to Mr. Langdon regarding what the officers' monies, who were members of the contributions club, were used for?

A I told him it was principally used to buy tickets to dinners, cocktail parties and to a lesser extent to buy journal ads.

Q Was there any discussion about whether or not the officers' monies --

MR. PATTISON: We would object at this time as leading.

THE COURT: I am inclined to agree. Sustained.

Q Was there any discussion with Mr. Langdon on the subject of postage stamps?

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A Yes.

Q What was that discussion?

THE COURT: This will be the last question.

MR. NAFTALIS: Before lunch?

THE COURT: Yes.

MR. NAFTALIS: Do you want me to start again after lunch?

THE COURT: I said this will bethe last question. He can answer this one.

A Yes, there was a discussion on postage stamps.

THE COURT: I suggest that we stop here and take our luncheon recess. Be back at 2:15, ladies and gentlemen. Do not talk about the case.

(Luncheon recess.)

AFTERNOON SESSION

MR. KATZBERG: May we put something on the record beforethe jury comes in?

We were out in the hall about half an hour ago, twenty minutes ago, and three or four jurors came walking by and they approached usand asked us whether or not we knew how longwe would be sitting on Wednesday, and we told them generally we believed your Honor would break early on Wednesday, but we did not have any specific knowledge. We just wanted -- since no one was present-- we wanted to put that on the record.

MR. RYAN: Thank you.

MR. KATZBERG: They were all male jurors.

(Jury present.)

THE COURT: We are ready to start.

Which of the jurors inquired as to Wednesday? I thought someone said they have to go to Brooklyn to people some people up?

What is the earliest or the latest that we could release you?

JUROR NO. 4: To recess the trial for the weekend, about 3:30?

THE COURT: What we will do is work through the lunch hour, until 2:15. That will cover the

balance of the time.

JUROR NO. 4: You are the judge.

THE COURT: Thursday is your holiday and Friday we will not have court.

Do you find these intervals of three or four days -- we do not expect you to retain everything -- but in the event you do not retain something that you have forgotten, you can ask the Court to have it read back to you to refresh your memories. There is noproblem in that.

P A T R I C K C L I F F O R D, having been previously duly sworn by the clerk of the court, resumed the stand and testified further as follows:

DIRECT EXAMINATION

BY MR. NAFTALIS (Cont'd):

Q When we broke for lunch, I was questioning you as to a meeting you, Mr. Dowd and Mr. Powell had with Mr. Langdon. I asked you if there was any discussion with regard to postage stamps.

Could you tell us whether in that discussion, to the best of your knowledge, postage stamps were mentioned?

A I told Mr. Langdon that there were no postage stamps bought from the offices, that $100 a month was received, and that I didn't handle the money and I asked

Mr. Powell and Mr. Dowd in Mr. Langdon's presence, and they said, no. And the answer was "no."

None of the monies were used from the offices to buy postage stamps.

Q Was there any discussion with Mr. Langdon about reimbursement?

A Yes, I do not know whether the word "reimbursement" was used. The question came up, did these fellows ever get their money back. I thought -- I assumed he meant did they get a hundred dollars back when they contributed a hundred dollars, and the answer was "no," and we have done nothing with our expense accounts, things like that.

We did not reimburse the officers.

Q The answer is that you, Mr. Powell and Mr. Dowd -- withdrawn.

Did Mr. Dowd have any documents with him at the time of this meeting with Mr. Langdon?

A Mr. Dowd had a file with him and he took out the list of contributors and I recall it was a list of contributors, and he gave it to Mr. Langdon and they talked generally about it. I think they got to talking about repaying Mr. Shea's loan.

Q Now, the answer that you, Mr. Powell and Mr. Dowd gave to Mr. Langdon was the truth, to the best of your

ability?

A Yes.

Q Do you stand on those answers here today?

A I stand on them today.

Q Did Mr. Langdon have the right to examine any of the records of the bank?

A Yes, he had the right to examine any records. He had the right to talk to anybody in the bank. He had more rights than anybody I know in his capacity as a regulator. He could recommend the removal of a board member, of a specific officer, including me.

Q Did he have the right to talk to your lawyers about it?

A I suggested that he talk to our law firm as well as Mr. Travers.

Q Now, I want to direct your attention to the latter part of 1972, the early part of 1973.

I want to askyou had you ever had a conversation with anybody relating to a check involving a dinner to Judge Sol Wachler?

A Yes.

Q Tell us about that.

A I received a telephone call in the Melville office, the headquarters office, from a gentleman whose name

I don't recall. I think he used the title of doctor. He told me he was in charge of the financing of the Wachler dinner. He said that he had been trying to reach Mr. Rex Johnson, our president, who I believe was in Stanford University at a meeting on the Coast, and he said that the bank had subscribed to a table for ten, $500 a plate, that to be sure that we used the table, and that some weeks had passed and they only received $2500 of the cost of the table, and he wanted to know when he might expect the balance.

Q What did you say to him?

A I told him I didn't know anything about it. I knew about the dinner, but I didn't go to it and I didn't know the status of the money, but that I would look into it. I took his telephone number, name, and I told him that I would get back to him.

Q What did you do then?

A I called for Mr. Stephan, who wasnot available. I then called for Mr. Casey. He came up to my office in Melville.

Q Did you have a conversation with Mr. Casey?

A I recited my conversation with this gentleman on the Wachler dinner and I asked Mr. Casey would he look into it for me and let me know and let this gentleman know when he was going to get the money.

6 A 1694 Clifford - direct

Q Did you have a subsequent conversation with Mr. Casey as to the same matter?

A In the same conversation Mr. Casey reminded me that he was no longer involved in that activity.

I said, "Nevertheless, go do this for me. Find out and let thisman know when he is getting his money."

Q Did there come a time when Mr. Casey came back to you and spoke with you on this subject matter, as to the Wachler dinner?

A I think the next day he came up to my office in Melville and told me that the check went into the mail the previous day or the day I initially spoke to him and the $2500 check has probably been received by now.

I said, "Wait a day or so and then call the man and make sure he got it."

I thought that was the end of the conversation --

Q What else was said in the conversation?

A Mr. Casey asked me might he close my door, which he did. I told him, "Yes." And he told me, "You know, the money didn't come from the club. It was a bank check for $2500."

I said to him that probably the $100 payments were all put together in a bank check worth $2500.

He said "No."

I asked "No"?

He said that the bank paid this and he said that's wrong, and I said "I know it's wrong."

(Continued on next page.

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A 1696 Clifford-direct

Q Did you have any other conversations with him?

A Yes, I told him I was annoyed about it. I forget the exact words, but I was annoyed. I told him that I wanted a full report from Mr. Stefan, that I wanted the bank repaid 100 percent plus 6 percent interest from the time the bank was out of pocket that money. I also told him, "I suppose they don't have any money in the club. If necessary, I will lay it out, the principal and the interest, that he would let me know, but I wanted a full report from Mr. Stefan."

Q Did you later speak to Mr. Stefan about this?

A Yes, he spoke to me.

Q Tell us about your conversation.

A I thought it was as much as a week later he came into my office and said:

"Pat, I know you have a very long memory, but I hope you do not hold this against me."

I said, "What are you talking about?"

He said, "A mistake was made by one of the clerks in my department, where we paid out the bank's money for one of the dinners."

I said, "It is illegal, Joe, it is embarrassing."

I said, "How much will it cost with the interest?"

He said, "It is all taken care of -- taken care of out of the club."

Q During that conversation with Mr. Stefan, did Mr. Stefan reveal to you at any time that he himself was the one who authorized the issuance of that check?

A No, sir.

MR. PATTISON: I object.

THECOURT: He answered the question.

MR. PATTISON: A fact not in evidence.

MR. NAFTALIS: It is in evidence.

THE COURT: Go ahead.

Q Staying with Mr. Casey for a moment:

Mr. Casey has testified here among other things that he had a conversation with Dave Dowd in which Dave Dowd told him that he had had a telephone conversation with you where there was some discussion about old records being destroyed.

Did you have a conversation with Dave Dowd?

A Never talked to Mr. Dowd about records being destroyed.

Q Sir, you have read the indictment in this case?

A Yes, sir.

Q And the charges?

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A Yes.

Q Did you ever unlawfully, willfully and knowingly conspire with Frank Powell and Dave Dowd or anybody else to cause the Security National Bank to make illegal political contributions?

A No, sir.

Q Did you ever unlawfully or willfully or knowingly consent to have the bank make unlawful political contributions to various named people in the indictment?

A No, sir.

Q Did you ever conspire with Mr. Dowd and Mr. Powell to embezzle, steal or misapply money from the bank?

A No sir, nor with anybody else either.

Q Have you ever been convicted of a crime, sir, state or federal?

A No, sir.

Q During the time that the officers in the SEcurity National Bank had this political donations program, what was your understanding as to the legality and propriety of that program?

A My understanding, sir, was that it was legal and proper.

MR. NAFTALIS: I have nothing else, your Honor.

CROSS-EXAMINATION

A 1699

BY MR. RYAN:

Q Mr. Clifford,you remember Mr. Casey testified about the Governor's Club?

A Yes.

Q Frank Powell was a member of the Governor's Club?

A I don't recall him saying that.

Q Do you know whether Frank Powell was ever a member of the Governor's Club?

A I don't know. I'd rather doubt it. I was a member and he wasn't a member when I was.

Q Do you recall when Frank Powell retired on May 1, 1972?

A Yes.

Q Prior to Mr. Powell's retirement on May 1, 1972, did you ever have a discussion with Frank Powell about the program and his retirement?

A By the program, do you mean the political contributions program?

Q Yes.

A He indicated to me, because he was going to retire and his income would be substantially reduced, he felt he should not continue in this program. I told him

A 1700

that I did not expect him to.

Q Do you recall how long prior to May 1, 1972 you had that conversation with him?

A Not really. I would think within a week probably, because we were going over things with Frank in anticipation of his retirement.

As you probably know, I arranged with him to stay on as a consultant.

Q I would like you to tell us about that. How did that come about?

A Frank was a very valuable man and I wanted his services in the bank. He had a home up in Connecticut, which he liked to go to for long weekends, and I had a deal with him -- not hard and fast -- whereby during the middle three days of the week he would come in and do things that I needed him to do, based upon his long experience in the bank.

I think there was a written contract that the lawyers had drawn up. I do not know whether it was for a year or three years.

Q The consultant agreement is in evidence. That is the agreement that you are referring to?

A I guess so, yes.

Q Did Frank come in five days a week, three days

A 1701

a week?

A I think he certainly came in those three days. There were times when I needed him on a Friday or something and he'd say, "Well, I'll take Monday and Tuesday off instead of just Monday."

He came in fairly regularly.

Q That would be after May 1, 1972?

A That was his retirement date.

Q This indictment charges --

MR. KATZENBERG: Objection, your Honor.

THE COURT: I did not hear the question.

Q This indictment charges in Count 3 that in or about October of 1972 you and Frank Powell knowingly and willfully consented to and caused a contribution to be made on behalf of the Security National Bank in connection with the Nixon rally.

Did Mr. Powell have anything whatsoever to do with the contribution to the Nixon rally, to your knowledge?

A Not to my knowledge. I don't recall that I had anything to do with that particular rally either. I have heard a lot about it. I don't place it in anything that I was involved with.

Q Count 5 also charges that in or about January of 1973 you and Frank Powell knowingly and willfully consented

and caused a contribution to be made on behalf of the bank to the Roncallo for Congress Committee.

To your knowledge did Frank Powell have anything whatsoever to do with that contribution in January of 1973 or at any other time?

A No sir, I don't recall ever talking to Frank Powell after he retired about a contribution club or any of these matters, other than when Mr. Shea at the board meeting told me we had a subpoena from this office in the Eastern District for a lot of records of our people, that after the meeting he said, "Who do you want assigned to this?"

I said that I would like to have Mr. Powell, although he is a consultant, because of his knowledge of the bank and his working relationship with people.

Q That was in connection with the investigation leading to this indictment?

A Yes, that is the only conversation I can recall having with Powell after he retired and became a consultant.

Q That would have occurred after April of 1974, when the investigation was commenced?

A I presume so. I don't know the exact date it was started.

Q Count 9 of this indictment charges that in September and December of 1972, you and Frank Powell, knowingly and willfully consented and caused contributions to be made on behalf of the bank to the Suffolk County Republican Committee in connection with the election in 1972.

To your knowledge did Frank Powell have anything whatsoever to do with those contributions?

A The date again?

Q September and December of 1972.

A Mr. Powell retired when?

Q May 1, 1972.

A I would say, no sir.

Q Count 17 charges that on or about September 9, 1972, yourself, Mr. Dowd and Mr. Powell, knowingly and willfully consented and caused a contribution to be made on behalf of the bank in connection with the election of Bernard Meyer to become a judge of the New York State Court of Appeals?

A No.

Q Did Frank Powell have anything to do with that contribution or that election to your knowledge?

A No, I had something to do with that contribution. Neither Dowd or Powell had anything to do with it as far as

I know and certainly not with me.

Q Count 19 charges that in August and September of 1972, yourself, Mr. Dowd, and Mr. Powell consented to and caused contributions to be made on behalf of Security National Bank in connection with the election of Sol Wachler to become a judge of the New York Court of Appeals.

To your knowledge did Frank Powell have anything to do with the contributions to Judge Wachler's campaign?

A I am sure in this case he did not.

MR. RYAN: I have no further questions.

(continued next page)

CROSS-EXAMINATION A 1705

BY MR. COHN:

Q Mr. Clifford, there came a time on September 22, 1972 that Dave Dowd resigned from the bank; is that so?

A I guess so. It was in the fall of 1972.

Q Fall of 1972?

A If the official date is September 22nd, I will accept that.

Q Dave Dowd talked to you about the fact that he was going to get a job at the Nassau Trust Company?

A I think he told me prior to that he was offered the presidency of the bank and I wished him luck.

Q Did Dave Dowd leave the bank with your blessing and your good wishes, Mr. Clifford?

A Yes, sir.

Q Did he leave under any cloud or any taint with respect to his character or reputation?

A No, sir.

Q And this was a promotion for the man in a sense, was not that so?

A I don't know if it was a financial promotion. I think he told me he was getting the same salary, but he was getting his own show as President of the bank and he felt he could do what we had done together and others

in building up security, that he could do it with Nassau Trust.

Q Is it not a fact that after Dave Dowd left the bank, that he nc longer participated in the approval of political contributions or the operation of the fund; isn't that correct?

A He cut his ties completely when he resigned. He couldn't participate in anything. We settled his pension and his profit-sharing.

Q He was completely severed from the bank?

A Surely.

I think it is illegal to work for two national banks at once.

Q Going back again to one of the question that was put to you by Mr. Ryan, referring to count 17 of the indictment, with respect to the contributions for the Bernie Meyer Committee.

Did Mr. Dowd have anything at all to do with that?

A Not to my knowledge.

Q And going back to one of his questions with regard to Judge Sol Wachler, to your knowledge, did Dave Dowd have anything to do with that?

A I think that was after he left the bank.

Q The checks and payment for that contribution, that are in evidence, are all dated October 20th and thiswas after he left the bank?

A 1707

A Yes, sir.

MR. COHN: I have no further questions.

MR. BANNIGAN: No questions.

THE COURT: Mr. Katzberg.

CROSS-EXAMINATION

BY MR. KATZBERG:

Q Good afternoon, Mr. Clifford.

A Good afternoon.

Q Now, Mr. Clifford, you told us that you came to the Security National Bank in February of 1966; is that correct?

A Yes, I believe my starting date was February 1.

Q 1966?

A Right.

Q And at that time the directors of the bank were engaged in a program whereby they were making political contributions?

A My recollection is that it was in effect when I came.

Q They were taking the money out of their directors' fees and giving that money to Mr. Maass' secretary, Pauline Reddy; is that correct?

A Or Mr. Maass himself.

Q And when you came aboard you participated in

that program; is that correct?

A Not at the first meeting. I saw at the end of the first meeting that the directors were doing this and I volunteered in between with Mr. Maass and contributed at the next meeting. I could be wrong.

Q Shortly after you came, just to be safe?

A Right.

Q And you, too, contributed; is that correct?

A Yes, sir.

Q Now, there came a time you told us in 1967, I believe, when it was decided that the directors would no longer be asked to make those contributions; is that correct?

A Well, it came out a little differently. A group of them did not want to make contributions.

Q Mr. Clifford, would you answer the question asked. In that way it would be a lot easier.

MR. NAFTALIS: I think he answered Mr. Katzberg's question.

MR. KATZBERG: With all due respect, it is not responsive.

THE WITNESS: Would you repeat the question?

Q Surely. There came a time in late 1967 when this system with the directors stopped; is that correct?

A That's correct.

Q And there came a time around this time when you announced to the Board of Directors that from that time on they would no longer be responsible for that money; is that correct?

A I don't know that I announced it or Mr. Maass announced it. I could have. Either of us could have. It might not have been any announcement, because it was a general discussion and agreement.

Q Do you recall Mr. Braun testifying at this trial?

A Yes.

Q Do you recall Mr. Braun saying that you in fact were the one who announced --

MR. NAFTALIS: I object to that. I do not think it is a fair characterization of his testimony. I think he should ask him a question and not characterize one's testimony.

THE COURT: Rephrase it.

Q Does that refresh your recollection that you were in fact the individual that announced there should be a new system?

A There was no announcement of a new system. The statement was that we will cut it off on a certain date.

Q Prior to that time, had you spoken to Mr. Dowd about the new system, sir?

A No, sir.

Q You had not?

A I had not. Prior to the time that the agreement was reached as to the directors not contributing any more, I had not.

Q For a time there were no contributions coming from the bank in any manner; is that correct?

A I think the cut-off date was the next meeting.

Q How soon after the cut-off date was the new system decided upon?

A]Reasonably quickly. I would guess a month. This would be a judgment as to what happened nine months ago. Certainly not the first day, but we had to go through various activities that have been described here.

Q But shortly after the directors stopped the new system was put into effect?

A I would guess within a month. I also recall that some directors were behind in their payments and it trickled in months after all the directors started contributing anew.

Q The new system was put into effect within approximately a month from the time the directors no longer contributed?

A As best as I can recollect. I didn't look at the records, so I can't say with certainty. My guess is that it

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happened within a month.

Q You and Mr. Dowd determined that there would be a new system; is that correct?

A Mr. Dowd and I, yes. Between us we determined it.

Q You told us on direct examination that it was Mr. Dowd's idea that the bank is going to have to make these contributions, so there would have to be some sort of replacement system?

A I testified that Mr. Dowd said that the bank would get hurt, that the other banks would not curtail their support of political organizations, and I recognized that I would do what I could out of my pocket, and I asked Mr. Dowd if he could do something -- not as much as I had agreed to.

Q Again, Mr. Clifford, the question is --

MR. BANNIGAN: I object. He asked the question and he answered it.

MR. KATZBERG: With all due respect --

THE COURT: Ask it again.

Q It was Mr. Dowd's suggestion that a new system replace the old one; is that correct, and you agreed?

A No, I don't think the word "system" was used. I think he told me he thinks we will get hurt, but he agreed with me. None of us were going to stick out our necks and

get into any illegalities. That was the end of the conversation and I testified that he came back to me within a week --

Q And there came a time when you and Mr. Dowd agreed that there would be a new system?

A I wouldn't characterize it as a "new system." It evolved from conversations. We didn't say there would be a system. I didn't testify to that, sir.

Q You were going to do the same thing with the directors?

You decided to do the same thing that the directors did?

A That a group of officers would after they talked to him.

Q And Mr. Dowd decided that you would go back to the system using the directors?

MR. NAFTALIS: Objection, that is not what he testified to.

THE WITNESS: Using senior officers and not directors. The directors are out of the deal.

Q Different contributors?

A Yes.

Q You and Mr. Dowd determined that instead of using the directors, the officers would contribute; is that correct?

A I didn't determine it. He told me that a number of senior officers volunteered to contribute $100 a month.

Q Mr. Dowd didn't solicit them?

A He said that he had conversations with them, as I testified.

Q Whom did he speak to, sir?

A I do not know. He didn't give me the names. He didn't ask me. I assumed senior people. We weren't that big a bank then and we didn't have that many senior officers as we did later.

If you want me to guess who they were --

Q No, sir.

Do you remember?

A I didn't ask him. I just assumed.

Q Did you ask him how many he spoke to?

A No.

He said he spoke to most of the senior officers.

Q So after consulting with these officers, it was decided then they would be the ones to make the contribution; is that correct?

A Yes, with qualifications.

Q Excuse me?

A With qualifications.

Q Isn't it a fact that the reason that the system

was changed from the directors to the officers was because utilizing officers more money could be generated that way?

A No, it wasn't, sir.

(continued next page)

Q Isn't it a fact that even in the early months of the system utilizing the officers that the system utilizing the officers generated more money than the directors system did?

A Probably did. I never counted it. There were more officers in this system than directors.

Q Therefore there was more money being generated?

A Yes.

Q At the time that you and Mr. Dowd determined to utilize the officers to make this contribution, about what month was that?

A Within weeks of the decision by the Board to stop contributing at a given date in the future at the next Board meeting and they were every two weeks.

I don't know if it was the next Board meeting or two Board meetings later.

Q Would it be fair to say September or October of '67?

A I don't remember the months but late in the year.

Q Does that sound about right?

A I guess. If I had the records when the Jaeger system was started I might remember.

Q If I told you that that started in 1967 would that refresh your recollection?

A That sounds right.

Q It was determined that the officers would contribute $100 a month; is that right?

A Yes.

Q Whose idea was that?

A I don't know. It was a statement Mr. Dowd made to me at his conversation with senior officers that they would be willing to contribute $100 a month.

Q So Dowd proposed $100 would be a good figure, and you agreed?

A I don't know that he proposed it but in any event I agreed with the $100.

Q Did Mr. Dowd say the senior officers suggested $100 a month?

A I don't recall who he said suggested it. That did not come out.

He said the bank would be hurt in not going to the dinners and they would be willing to pay $100 a month.

Q You agreed that $100 would be a good figure?

MR. BANNIGAN: I object.

THE COURT: Do not preface it.

Q You agreed to that amount?

A I did not disagree with it.

Q It was determined theofficers between Dowd and yourself, that the officers would contribute $100 a month?

A-[redacted]

A Mr. Dowd suggested it and I said I would contribute and I had some other conditions, I had the voluntary condition and approval by the legal department and counsel.

Q It was determined that $100 would be the figure?

A Yes. We didn't talk about $75 or 175.

Q It was also determined around that time that the officers contributing $100 would receive $1700 increases; is that correct?

A No.

Q You and Mr. Dowd determined the officers would pay $100 out of their own pocket?

A I didn't determine anything.

Q When for the first time did you learn the officers making the contributions would be receiving $1700 salary increases?

A Whem Mr. Powell telephoned me, I believe in the city, and read off a group of officers names and told me that a meeting was held in Mr. Maass' office and Mr. Dowd, Mr.Powell and Mr. Maass, I believe Mr. Maass approved the program of $1700 raises and said make sure that Pat Clifford also approves.

Q Who determined the raise would be $1700?

A I don't know.

Q You have no idea?

A I assume one of that group. I assume it was

David Dowd, but I don't specifically know.

Q Did you ask how did you pick the figure $1700?

A No. It was a telephone call.

Q Based on what Mr. Powell told you, you came to learn that the raises were going to be $1700 for the officers?

A I knew there would be raises from previous conversations with Mr. Dowd.

Q And you and Mr. Dowd in the previous conversation didn't figure out how much the raises would be?

A I didn't figure out anything. All I knew there would be raises.

Q Tell us what that conversation was between you and Mr. Dowd when you determined the contributing officers should receive raises.

A I don't think I determined that. He reported to me a conversation he had outlining the plan with Mr. DeGenaro. They talked about the voluntary nature of the program and the ability of the bank to give its officers raises.

Q I would like you to tell the jury the conversation between yourself and Mr. Dowd wherein you discussed offering officers contribution raises.

MR. BANNIGAN: I object. He just related that.

THE COURT: I don't think so. Go ahead.

A Mr. Dowd came into my office and reported to me he just finished a conversation with Mr. DeGenaro, and that they covered the voluntariness of the plan and that Mr. Maass and Mr. Clifford would not talk to the officers about coming into the plan because of the fact it might not be considered voluntary; but Mr. DeGenaro said in connection with the suggestion of Mr. Dowd's that they would like to give the people raises that the bank or any corporation had the perogative to decide on raises so long as they were not preposterous.

Q When for the first time did you realize officers would be receiving raises?

A At that meeting with Mr. Dowd.

Q After Mr. Dowd approved it?

A I was not privvy directly to the conversation of Mr. Dowd and Mr. DeGenaro. He reported to me. I asked him to clear the program with Mr. DeGenaro.

I was in my own office and he reported what transpired.

Q Before Mr. DeGenaro could be apprised of what the program was, didn't you discuss with Mr. Dowd what you would ask Mr. DeGenaro?

A No.

MR. COHN: Objection.

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Argumentative.

THE COURT: Yes, it is.

Q You testified on direct examination that you and Mr. Maass would be kept out of the thing?

A Yes.

Q Why was that?

A Because it is like the comment I made, and I think it came up in the conversation with Mr. Dowd, that when a general asks someone to volunteer something there is a question of whether he volunteers or has any choice.

When the chips are down people might deny their voluntariness and say they were forced to do it and it was said that Mr. Maass and I would be kept out of it.

Q You would be kept out of introducing people into the club?

A Yes, because of our high position.

Q It would be inherent coerciveness?

MR. NAFTALIS: Objection.

THE COURT: Sustained.

Q If a superior goes to his employee you felt there was inherent in that in the relationship and the question of voluntariness --

MR. BANNIGAN: Objection.

THE COURT: Yes.

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Q That is one of your conversations?

THE COURT: Rephrase the question.

Q You considered, did you not, a question of voluntariness if a boss went to his employee; is that correct?

A Yes, because I am not a youngster and I lived long enough to know that things may have been voluntary and later there are problems and people forget about it and say we were forced to do it.

Q What about the other decisions of the club, were you to be kept away from those too, like where the money was going to go?

A That didn't come up.

Q Did there come a time when you played a role in that?

A Yes.

Q What about who was to be members?

A A general role. I was told only certain salaried people would be asked. The figure at that time was fairly minimum salary. I remember I didn't want assistant vice presidents or managers in, I wasnted only top officers.

Q Who chose the club members?

A I guess Mr. Dowd primarily.

Q How about Mr. Powell?

A I doubt -- I don't know.

A 1722

Q Is it your understanding that Mr. Dowd chose them?

A Mr. Dowd agreed he would take charge of the club.

Q And he would choose the officers?

A I don't remember that that was said.

Q Did Mr. Dowd tell you the members that were chosen in the club?

A At some point.

Mr. Langdon didn't have the list and I --

Q Let us talk about the people who were introduced in the club in '67 and '68. Did Mr. Dowd advise you of the people chosen to participate in the club?

A I don't recall that he did.

Q Did he seek your prior approval before having these people to be asked to contribute?

A No, only we agreed on a minimum salary to be asked.

Q He never gave you any names before or after the fact?

A I don't recall. I did see the list at the Langdon meeting.

Q In '67 or '68?

A I don't recall that he did.

A 1723

Q That was Mr. Dowd's decision?

A Yes.

Q Did you come to learn all the people who came into the club received $1700 increases?

A I don't know if they all did. I didn't know all of them in the club.

Q You knew Dowd got a $1700 increase?

A Yes.

Q For the purpose of making the contribution?

A Yes.

Q And Mr. Powell got an increase the same date, 11/27?

A Yes.

Q And Mr. Dowd told you about?

A No, Mr. Powell did. He telephoned me and read the names and said Mr. Maass wanted to be sure I approved it.

Q Do you remember how many names there were?

A No, five or ten. I could be wrong on that.

(Continued on next page)

Q You didn't receive a raise?

A No.

Q At that time, early 1968, how much money were you making?

Do you recall?

A No.

Q Let us see if this refreshes your recollection, Government's Exhibit 9.

A On April 1, 1968, my salary was $35,000.

Q You knew that it was illegal for a national bank to make political contributions.

A Directly, yes.

Q Mr. Doud knew that?

MR. NAFTALIS: Objection.

THE WITNESS: I guess he did.

Q Mr. Powell did, didn't he?

A I don't know.

MR. BANNIGAN: I object to what Mr. Powell knew.

Q Is it fair to say it was common knowledge in the bank community that it was illegal for national banks to make political contributions?

A At that time, yes. I don't know how common it was, but it depended on what level you are talking.

Q Executives.

A 1725

A I knew it.

Q A bank could not take its money and transfer it over to a political candidate's committee?

A They were not supposed to.

Q It was against the law?

A Yes.

Q So because you knew it was illegal to make these contributions, you wanted your system checked by Counsel.

MR. NAFTALIS: Objection.

THE COURT: Overruled.

Q You sent Mr. Doud to speak to Mr. DeGenaro?

A Yes.

Q In the first conversation, isn't it a fact that Doud, when he described the contributions, the proposal, Mr. DeGenaro you could not do it?

A I do not know that that is so. That is not the report he brought back to me.

Q No question about that he never told you?

A No question in my mind.

Q Did Doud tell you what he told DeGenaro about the system he asked Mr. DeGenaro to approve?

A He gave me the outlines, what voluntariness was extremely important, and Mr. DeGenaro thought it was a good idea but the two top people should not get involved, that a

bank or its management could give raises so long as they were not preposterous.

Q Did Mr. Doud tell you he told Mr. DeGenaro that the officers of the club were to receive $1700 salary increases specifically for the purpose of making contributions?

A No.

Q Did he tell you he told Mr. DeGenaro out of the $1700 increase the officers were going to be making contributions of $100 a month?

A No, sir.

Q Did Mr. Doud tell you he told Mr. DeGenaro the officers wouldn't be choosing where the money would be going but other people would be?

A No. We didn't get into how much. He told me it was permissible to increase salaries.

Q He didn't go into specifics of increasing the salaries to $1700 for the purpose of contributions?

A No.

Q You told us that you spoke to Mr. Shea?

A Yes.

Q In that same period of time?

A Within that period of a month that a decision was made.

Q Approximately October or November of '67?

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A Yes.

Q Where were you and where was Mr. Shea?

A I don't know. I think it was after the board meeting.

Q Was anyone else present?

A It would -- well, it could be, but I don't recall.

Q What was the conversation?

A I told Mr. Shea that Mr. Doud and I were talking about having the officers program buy tickets and take journal ads and the amount fixed was $100, and I agreed to contribute and Dave Doud agreed to contribute, and I was concerned about the voluntariness and Mr. Doud's answer was I would not ask and Mr. Mause wouldn't ask them to contribute. I asked Mr. Shea to assign his best lawyer to see what Mr. Doud was doing, and I was too far in life to get in trouble and God feels the same way --

Q Did you tell Mr. Shea at that time the officers contributing would be given $1700 for that purpose?

A No.

Q Did you discuss the officers' salary increases at that time with him?

A No.

Q Did you ever discuss it with him?

A Yes.

Q When for the first time did you and Mr. Shea discuss the fact that officers would receive a $1700 increase?

A I don't know that I ever did specifically, but Mr. Shea and I were very close and we used to evaluate people at the bank and talk about their salaries.

Q When for the first time did you and Mr. Shea discuss the fact that officers at the bank were receiving money from the bank in the form of salary increases to make political contributions?

A I don't recall specifically discussions on that. I assumed -- I assume when Mr. Doud came back from his discussion with Mr. DeGenaro that Mr. Shea would have learned because Mr. DeGenaro was very close with Mr. Shea.

Q You never discussed with Bill Shea at any time the fact that officers at the bank were receiving salary increases for the purpose of political contributions?

A I do not recall that I did.

Q You are basing your reliance of the opinion of the Shea firm on what Mr. Doud told you he discussed with Mr. DeGenaro?

A Yes.

Q You didn't speak to Mr. DeGenaro?

A No.

Q Even though you had an office in the Shea firm?

A I don't know if I had an office then there.

Q You went to that office on a regular basis?

A Not regularly. I went to Mr. Shea's office. Mr. DeGenaro's office was down the corner and unless he came by or called over I wouldn't have seen him.

Q You certainly saw Mr. DeGenaro a number of times.

A Yes.

Q You never discussed salary increases with him?

A I wouldn't doubt Mr. Doud.

Q The answer is you didn't?

A That is correct.

Q On all the occasions you spoke and met with Shea, you couldn't recall a conversation with him on the subject of salary increases being granted to officers for political contributions?

A I don't say it didn't happen, but I don't recall it.

Q When Mr. Doud told you that Mr. DeGenaro had approved his outline of this new contribution method, did you ask Mr. Doud whether or not he asked for a written opinion letter?

A No.

Q Did Mr. Doud tell you that he and Mr. DeGenaro discussed such a written opinion letter?

A Not at that time.

Q Did you ever ask Mr. Shea, Mr. DeGenaro, Mr. Doud or anybody, for a written opinion on this subject?

A I didn't but I wish I had.

Q You didn't?

A I didn't.

Q Did you ever see a written opinion from anybody in the Shea firm?

A No.

Q An opinion wasn't peculiar --

MR. NAFTALIS: Objection.

THE COURT: Sustained.

Q You would regularly solicit opinion letters from the Shea firm?

A That is not correct. You ask me regularly --

Q Well, did you ever?

A Yes.

Q That was a common practice?

A No.

Q How often did you ask for one?

A As far as I know, I never got them for more than ten per cent of the time. If we ever asked for them on everything, our legal fees would have been out of sight.

Q Well, your legal fees were out of sight, weren't they?

A No. They were a going law firm, and we paid the regular fees.

Q It was determined in November of '67 you would proceed with this new contribution method?

A Yes.

Q And Betty Jaeger would open up a special account?

A I don't know if it was at that time.

Q When did you first know that she opened that account?

A After I told Mr. Doud that I wanted somebody to watch the money. I asked Mr. Doud how to make my first contribution and he said to Betty Jaeger.

Q In other words, you played no decision in it, in the Betty Jaeger account?

A No. I assume Mr. Powell couldn't do it. He assigned it to Mrs. Jaeger.

Q You never asked Mr. Powell to speak to Mr. Jaeger?

A I don't know but I got it.

Q You never asked Doud to speak to Powell, to speak to Mrs. Jaeger?

A I doubt it.

Q You delegated that responsibility to Powell?

A I wanted him to watch the money.

Q Whose idea was it to call the Betty Jaeger account Special D Account?

A I don't know?

Q You told us that Mr. Doud was the one who was responsible for choosing the members of the club?

A As far as I knew.

Q Did you ever discuss with Mr. Doud what criteria he should follow in choosing certain people at the bank?

A No, other than we had a limit on the people's salary who would be invited.

THE COURT: He said no, but he keeps talking.

Q You told us from time to time Mr. Doud would tell you who had been invited into the club?

A I don't recall that I said that.

I said I recall seeing the list on one occasion.

Q When for the first time did you see a list?

A When Mr. Langdon visited the bank in February of '71.

Q Who had the list of members?

A I believe Mr. Doud.

Q How many names were on it?

A Possibly twenty.

Q Prior to that time, you didn't know the names of the people other than Mr. Doud and Mr. Powell who were

contributing?

A I knew Mr. Bradley was.

Q Did he tell you he had been giving money specifically for contributions?

A No.

Q Any others besides Bradley?

A Well, people change over the years. I was supposed to keep out of it.

THE COURT: When there is no question, please don't talk.

(Continued next page.)

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Q You told us before recess that Mr. Dowd would select the club members?

A Yes.

Q He didn't consult you before selecting them?

A He consulted me on minimum pay. He consulted me that it should encompass all the senior officers.

Q He didn't consult you of the names?

A No.

Q You only found out some time after the fact who had been included?

A Yes.

Q The first you heard that $1700 increases were given was when Mr. Powell called you and told you about it?

A Yes. That is my best recollection.

Q And the $1700 salary increases were for the club?

A Yes.

Q Do you remember the names of the people who were granted those increases?

A Not off-hand. You cannot fix people in 66 and 67.

Q Did you ever discuss with Mr. Powell or Mr. Maass that those people would receive those increases before they got them?

A I don't recall. Mr. Powell read off the names

and asked if I would go along and I told him I would rely on his judgment and Mr. Maass' judgement.

Q You, Mr. Maass, Mr. Powell didn't discuss it among yourselves before you got that call?

A I don't believe so.

Q Mr. Powell didn't consult you before determining these people would get $1700 salaries increase --

MR. BANNIGAN: Objection. Asked and answered.

THE COURT: Yes.

Q I show you defendant's exhibit II-1 and see if that refreshes your recollection that you, Mr. Maass and Mr. Powell discussed giving those people $1700 salary increases before they got the money?

A This is April 15 of 68. I thought we were talking about the group of raises in November of 1967 which is a different group.

Q So this is a subsequent group of raises for the club?

A Yes.

Q Does that refresh your recollection that you, Powell and Maass discussed giving those specific officers $1700 increases?

A It appears it was discussed with me.

Q This refreshes your recollection with respect to

Brooks, Mr. Dalhman, Mr. Gidge, Mr. Saunders, Mr. Sly, and Mr. Van, that you discussed those people getting $1700 salary increases before they got them?

A I don't have a specific recollection of this. I asked did you discuss it and he said yes, and I said that I would accept it.

Q You did discuss the increases for those men?

A Yes.

Q When that memorandum was written how many people were in the Club?

A I don't know.

Q Were these the officers who participated in the club -- were these the first officers whose participation in the club you ever discussed?

A No. I answered earlier on some raises in November of 67.

Q That was Mr. Powell and Mr. Dowd?

A That was when I received a phone call from Mr. Powell and he said Mr. Maass said make sure Mr. Clifford knows about it and approves.

Q Was the Board of Directors ever asked to pass upon those salary increases in November of 67?

A I don't know. I was out in those meetings on vacation.

Q Did you ever ask Mr. Maass whether or not those increases were presented to the Board of Directors?

A No.

Q You told us the first people you introduced into the club were Mr.Wulffleff, Mr. Loo and Mr. Corriss; is that correct?

A Yes, either in January or December.

Q That is the first time you ever asked any body to participate?

A Yes.

Q That was done intentionally?

A Yes.

Q You did not ask these people?

A Yes.

Q Do you know when Mr. Brogan testified?

A Yes.

Q Do you remember when he testified that in December of 67 he was in your office and you offered him $1700 increase for the purpose of making political contributions of $100 per month?

A I remember his testimony.

Q Do you remember Mr. Brogan said when you were offered --.

MR. BANNIGAN: I object.

THE COURT: Yes.

Q Do you remember Brogan, do you remember asking him to join the club in December of 67?

A No. He must be mistaken.

It would be inconsistent for me to ask him after we went through an agreement that Mr. Maass and I would not ask people in those days.

Q So Mr. Brogan was incorrect?

A I would say he was mistaken.

Q Do you recall asking anybody else?

A No.

I asked no one from the beginning of that club until I asked Mr. Loo, Mr. Corriss and Mr. Wulffleff possibly.

Q You asked him at the same meeting?

A I don't recall Mr. Wulffleff being there. I assume he was there and I remembered Mr. Loo being there and Mr. Corriss, I forgot about, and he reminded me and refreshed my memory.

Q You said Mr. Doud came to you and he said that he didn't feel it appropriate to ask them?

A I don't know that he came, but I think he telphoned and said they finished their temporary probationary period in thebank and Mr. Doud felt that it would be better he not ask them because they were above him or on an equal

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basis.

Q He felt the people who asked officers to contribute would be on a level if not superior to them?

A At that time he asked if I would do it. I didn't ask him why.

Q You were senior to Mr. Loo and to Mr. Corriss?

A Yes.

Q That is why you did it?

A Yes.

Q Isn't it a fact every single officer asked to join and participate was asked by his superior.

A I don't know that. I know Mr. Doud asked Mr. Travers. I assume he asked Mr. Powell -- I don't agree with that, but --

Q You heard the testimony of the officers who appeared in the Government's case?

A Yes.

Q Isn't it a fact each were asked to participate by either their superior or some body in a superior authority?

MR. NAFTALIS: Objection.

THE COURT: Are you speaking of in the court room?

MR. KATZBERG: Yes.

A I heard Mr. Travis testifying that he was asked by Mr. Doud. He was president and Mr. Doud was senior vice-

president.

Q How about Mr. Sly?

A By somebody senior but not everybody. I think --I think Mr. Doud asked Mr. Powell.

Q To participate?

A Yes. I think so. I assume he did.

Q Mr. Doud offered Mr. Powell the $1700 increase?

A I don't remember that.

Q Is it fair to say that by and large the officers who were asked to contribute were asked by their immediate superior or some body above that?

A Not invariably so, but substantially, but not completely. I didn't do the asking.

Q That is why Mr. Doud asked you to invite Mr. Loo and Mr. Corriss because you were superior to them and he was not?

A Mr. Doud asked me to ask these men because they were over him.

Q Because you were in a superior position than them?

A Yes.

Q You voiced an opinion before that if you were asking these people that would raise questions of voluntariness?

A Yes.

Q Wouldn't the same question of voluntariness be raised by somebody's immediate superior asking them as well?

A It should have. I decided to do it anyhow because a lot of people resigned and died and left to go to other jobs and the club was getting smaller. I wanted to get Mr. Shea paid. I felt that I was dealing with a high class firm and I wanted those people paid.

Q Despite the fact that raised the question of voluntariness you proceeded to have the boss ask the employee?

A It is inconsistent with how I felt in 1966, but I did it.

Q In this meeting with Mr. Loo and Mr. Corriss and Wulffleff, you told them their probationary period was over?

A Yes. We have an agreement with them that they be on probation for three or four months.

Q At that time you offered Mr. Corriss a $5,000 raise?

A I didn't. It was approved by the Board of Directors. The Committee of Outside Directors headed by Dr. Ronan took over the responsibility of raises for Senior Vice-Presidents and up.

Q You told Mr. Corriss he was getting a $5,000 raise?

A Yes, I told him it was approved by the Board of Directors.

Q You told Mr. Loo he was getting a $5,000 raise?

A I told him it might be more.

Q And you told Mr. Wulffleff that he was given a raise?

A I don't recall, but I must have.

Q You told him about the group of contributors at the bank?

A I told him I and other senior officers were contributing to buy $100.00 ads a month on a voluntary basis and told them we would like them to join voluntarily.

Q You didn't tell him about the contributions until after the raises?

A That is right.

(continued next page)

Q During the period of time when the club first started in 1967 through '68 and '69 who was deciding where the money would go?

A Mr. Dowd primarily, myself to the extent I was available and probably Mr. Maass to some extent.

Q Anybody else?

A I don't think Mr. Powell did. If he did, I would have been surprised. These monies depended on the municipal --

Q I want to focus on the people determining where the money would go, yourself, Dowd to some extent, Maass?

A Yes. I am sure Mr. Maass got requests when he ran the Directors Club.

Q Anybody other than the three of you that you can recall?

A Not that I can recall. I am sure the people at the branch would get the request and they would call Dowd and work it out.

Q These requests would come to you as President?

A Yes.

Q And Dowd would discuss where the money was to go?

A Yes, but my girl would take these requests in a letter.

Q Again, it is Mr. Dowd?

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MR. NAFTALIS: I object.

THE COURT: Proceed.

A If I was not there Miss Salmon would turn the call over to Mr. Dowd or she would go in with a letter and say this came in Clifford's mail and leave it there. If I was there I would make the decision depending on the municipal deposits we would have. If they asked us to come to a dinner in Cedarhurst where we had no interest I would say no because there was nothing to be gained there.

Q In making these decisions what were the factors you considered as to whether or not the contributions were to be made and in what amounts?

A We were always asked to do more than we wanted to do and we tried to cut them down. If it was a $100 a plate dinner for five tables it would be $5,000 and we would cut it down to one table. If we had five million dollars on deposit, if the Republicans wanted to take a table, two tables, we would take one.

Q One of the factors was who was asking?

A Yes.

Q And are they in power?

A Yes.

Q Do they control any municipal accounts?

A Yes.

Q Do they control any municipal accounts that we have?

A Yes.

Q Do they control any municipal accounts that other banks might have?

A Yes.

Q That we might be able to get?

A Yes.

Q Anything else?

A How big was the dinner and who was to be there and whether savings banks were going to be there or corporations and whether there would be a good attendance. We wanted to be there for exposure and ability to do business.

Q Did you also consider what the other banks were contributing?

A Yes.

Q Anything else you might have considered?

A I think that is it.

Q After you would make the decision as to where the money would go and in what amounts in the Betty Jaeger account --

A I don't know -- I would turn that over to Mr. Dowd. I did not get involved in the mechanics.

Q Once a decision was made as to who would get

what money you didn't play any role with actually translating the decision into money?

A If they couldn't find my secretary I might have gone to Mr. Dowd and said, look at this. I think we ought to take a table. I don't think I ever delivered the money or --

Q Once a decision was made or whoever it was who made the decision decided a certain amount of money would go to a certain committee --

MR. NAFTALIS: I object.

THE COURT: If he knows.

Q Once that decision was made you didn't play any role whatsoever as to getting the actual money and having it sent over to the committee?

A There might have been an exception. I cannot remember. I often went.

Q Whose function was it to tell Mrs. Jaeger how much money should go into whom?

A Generally, Mr. Dowd and his secretary.

Q Once Mr. Dowd told Mrs. Jaeger how much money was to be sent out and to whom, what happened?

A I don't know if he went to Mr. Maass and said this is what we are trying to do. I don't really know.

Q Once a decision was made and Mrs. Jaeger was told what knowledge do you have of how that decision was

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translated into money?

A I do not have any. I would be guessing.

Q You have no knowledge yourself?

A I don't think so. That wasn't my job.

Q Those details were handled by Mr. Dowd, Mrs. Jaeger and the others; is that correct?

A I guess so, yes.

Q You indicated that one of the purposes of going to these dinners was visibility, as you called it?

A Making sure that people you should know see you.

Q You knew a given dinner, that their purpose was to raise funds?

A Yes.

Q And they held the dinner or sponsored the outing or had the affair for the purpose of raising money?

A Yes.

Q They raised the money in order to support candidates they backed?

A Not necessarily. Sometimes it was to pay the bills of successful candidates or unsuccessful candidates.

Q The money went to pay bills of candidates?

A I didn't go through the mechanics. I assume that is what happened.

Q It was common knowledge.

A 1748 MR. BANNIGAN: I object.

THE COURT: If he knows.

A I don't know if anybody went knew. I assumed the money went to pay their obligations.

Q Did there come a time after the official initial salary increases were granted, that more people were introduced into the club in '68?

A According to that memo.

Q Each of these people received $1,700 salary increases?

A Yes.

Q Isn't it also true in January of '68 a number of officers received $1,700 salary increases for the purpose of making political contributions?

A I don't know that.

Q Would it refresh your recollection if I said Mr. Fretz, Mr. Sly, Mr. Brogan, Mr. Corise and Mr. Melscher and Mr. Dickerson all received $1,700 increases on 1/8/68.

A I don't recall but if that is the record I will accept it.

Q Did you play any role whatsoever with selecting either Mr. Fretz, Mr. Sly, Mr. Brogan, Mr. Korise, Mr. Melscher, or Mr. Dickerson?

A No.

Q Who selected them?

A I don't know. I think on the original standard of the minimum salary.

Q Who selected them by that standard?

A I don't know.

Q You have no idea?

A I have no idea.

(Side bar discussion out of hearing of the jury:)

THE COURT: How long more do you have?

MR. KATZBERG: I have a long way to go, your Honor. I can adjourn now if you'd like. I have about a good hour with him.

THE COURT: Well, I would have finished with him but --

MR. KATZBERG: We don't mind adjourning, your Honor.

(In hearing of Jury)

THE COURT: Ladies and gentlemen, we will adjourn now. Do not discuss the case with one another or with anyone not on the jury. Come back at ten o'clock tomorrow.

* * *

PATRICK CLIFFORD, having been previously duly sworn by the Clerk of the Court, resumed the stand and testified further as follows:

CROSS-EXAMINATION

BY MR. KATZBERG (Continued):

Q Yesterday we were discussing certain salary raises granted to officers for the purpose of making political contributions. Do you remember that, sir?

A Yes.

Q We have gotten to the point where we were beginning to discuss salary increases that were granted as of January 1, 1968; is that correct, sir?

A I thought it was November of 1967 and April of 1968?

Q Well, there were a number of salary increases --

A I am sorry, you are right. You also did bring up January 1st.

Q Fine, sir.

Now, I want to show you certain exhibits that are already in evidence, Exhibit 18, Mr. Fretz; Exhibit 43, Mr. Sly; Exhibit 5, Mr. Brogan; Exhibit 26, Mr. Knoess; Exhibit 36, Mr. Melsha and Exhibit 13, Mr. Dickerson.

Would you look at those and tell us isn't it true that all of those officers received $1700 salary increases

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on 1/8/68?

A No, sir.

Q It is not correct?

A The first one I am looking at is Mr. Charles S. Dickerson, on January 8, 1968 his salary was increased from $17,500 to $18,500. That would be a thousand dollars.

Q And also, sir, on the same date is it not true that he also got a $1700 salary increase?

A There are two raises on the same date.

Q Let us confine ourselves to the club raise, the $1700 raise.

Would you look at these exhibits and satisfy yourself that every one of those officers received a $1700 salary increase on 1/8/68?

A That is correct.

Q Mr. Clifford, I want to show you what has been marked as Exhibit 163 in Evidence and this is the meeting of the Board of Directors of December 14, 1967; is that correct?

(Document shown to witness.)

A Yes, sir.

Q At that time you were a member of the Board of Directors?

A Yes.

Q And you were present at that meeting?

A It so indicates, yes.

Q Isn't it a fact that at that meeting the Board of Directors was told of certain salary increases and that the salary increases were proposed to the Board and passed by the Board on that date or included in a separate attachment to the Board of Directors minutes; is that correct?

A I am looking for --

Q I believe the minutes continue on the subsequent pages.

A Yes, I just read it.

Q Is that right?

A Yes.

Q The officers salary review committee was responsible, was it not, for proposing recommended increases to the Board; is that correct?

A Yes.

Q And you were on that committee?

A Yes.

Q And you would come up with a schedule of proposed increases for the Board so the Board could approve them or disapprove them?

A I don't know if I would come up with the schedule. I do not know if Mr. Maass or I did. Mr. Maass

was the Chief Executive Officer.

Q You were on the committee yourself, were you not?

A I was on.

Q And the committee proposed the raises to be passed upon by the Board of Directors?

A Yes.

Q I want to show you Exhibit 166, which is also in evidence, and I want you to tell us, sir, at this meeting at which you were present on December 14, 1967, whether or not the Board was asked to approve the $1700 salary increases for Mr. Sly, Mr. Knoess, Mr. Melsha, Mr. Dickerson, Mr. Brogan and Mr. Fretz.

A I know the Board reviewed raises, but in the minutes it does not detail the names.

Q The attachment does.

It says on top, does it not, raises effective January 8, 1968?

A It doesn't say --

Q Is that right?

A I don't recall if this was attached, but it should have been.

Q Would you see whether in the attachment of the minutes there is any reference -- let us start with

Mr. Fretz:

Is there any reference to Mr. Fretz receiving a $1700 salary increase?

A No, there is a reference to a $3500 recommended increase, John R. Fretz.

Q For $3500?

A Yes.

Q That was the increase that is listed on the Visi card to bring him up to $20,000?

(Document shown to witness.)

Q Let me help you, he is making sixteen five and he received 3500, which would make it 20, and on the same date he received 1700 to give him $21,700.

Is there any reference to the $1700 salary increase?

A There is not.

Q The Board was never asked to approve that?

A I assume that.

Q How about as to Mr. Sly, according to his Visi card he received two increases of $500 and $1700 on 1/8/68.

Could you tell us whether or not the Board was told about the $1700?

A Let me check that.

He received two raises totaling $1700.

There is a $500 and a $1700 increase; is that correct, sir?

A Went from 18,000 to eighteen five and then to 20,200, right.

Q Can you see whether the Board was told about the $1700 that Mr. Sly got?

A 500.

Q No 1700?

A Correct.

Q What about Mr. Knoess, according to his Visi card, on 1/8/68 he received two raises: A $2,000 raise and a $1700 raise; is that correct, sir?

A 37 total.

Q Would you look to see whether or not the $1700 raise was proposed to the Board?

A Do you know where he is in this listing?

Q Right over here (indicating).

A $2,000 was recommended, 20,000 to 22,000.

Q Is there any mention of the $1700 raise being proposed to the Board?

A Not on this sheet.

Q What about Mr. Melsha, his Visi card showed that on 1/8/68 he received two raises of $3,000 and $1700. Would you look for Mr. Melsha?

A $4,700.

Q Two separate raises?

A Recommended increase.

Q Is there any indication --

A Not on this document. It shows general raises, it does not break it down.

Q It is not there?

A That doesn't say it wasn't discussed. I don't know why the figures are this way.

Q It is not in the minutes or the attachment?

A The minutes state that Mr. Brogan was recommended by the committee --

Q The committee that you were a member of --

MR. NAFTALIS: He has not let the witness finish his answer.

THE COURT: Yes.

THE WITNESS: There are no names, there is generalization.

Q The attachment, Exhibit 166, is a breakdown of specifics; is that correct?

A I am sure I didn't present this to the Board. This was Mr. Mause's job. I didn't interfere.

Q You were present?

A But I didn't present it.

Q You were present, were you not?

A Yes, but this was many years ago.

Q How about Mr. Dickerson?

A I assume it is the same.

Q Let us check to make sure, he received a one thousand dollar raise and a $1700 raise on 1/8/68.

Was the Board told about Dickerson's $1700 raise?

A I will let you know in a minute.

(Pause.)

A He received on the 8th a thousand dollar raise and a $1700 raise,$1700.

Q Do you see the $1700 reflected in what the Board was asked to approve?

MR. COHN: Your Honor, may I approach with counsel?

THE COURT: Yes, do not answer the question.

(The following transpired at the side bar):

MR. COHN: I would like to put Judge Suozzi on the stand.

(The following transpired in open court):

MR. COHN: I request that the cross-examination be suspended to allow me to put on another witness.

THE COURT: Your application is granted.

You may step down, Mr. Clifford.

PATRICK CLIFFORD, resumes the stand and testifies further as follows:

A Charles Dickerson, an increase of $1,000.

Q There is no reference to the $1700, is there?

A Not on this sheet, sir.

Q So according to the attachment and the records of the Board of Directors for the meeting that these increases were voted, there was no discussion of the $1700 club raises; isn't that correct?

A There is no indication on the sheets whether there was discussion or not. I have no recollection.

Q And the Board never officially approved of those salary increases; is that correct?

A I don't know whether they did or not. I don't recall on January 8, 1968 --

Q Would not the Board minutes reflect all actions of the Board?

A Not necessarily. Some things went on at the Board. We did not have a girl taking down our minutes. Mr. Spitzbart used to take the minutes. He'd make a few notes and dictate them to the girl after the meeting.

Q Is it your testimony that Mr. Spitzbert omitted each and every one of these?

A I don't have any recollection.

Q The Board minutes certainly reflect nothing at all about a discussion or approval of these raises; is that correct?

A They don't specifically say anything about dollars.

Q About the $1700?

A Or any dollars.

Q They discuss the other raises, don't they?

A They haven't got any dollars in the minutes of the Board meeting.

Q Doesn't the attachment --

A In the attachment, but I am talking about the minutes.

Q Does not the attachment show the other increases?

A If that was at the Board meeting, and I don't recall it was. I didn't conduct the meeting. Mr. Maass did.

Q The question is, is it not a fact that neither the minutes nor the attachment reflects any discussion or approval of the $1700 salary increases.

A They do not.

Q Thank you.

By the way, who made up that attachment?

A I do not know.

Q That wasn't something made up by the officers' salary review committee, was it?

MR. NAFTALIS: Objection, asked and answered.

A I would not know.

Q There were other people added to the club that received $1700 salary increases after January of 1968; is that correct, sir?

A Yes.

Q They likewise received $1700 salary increases; isn't that correct?

A You showed me a memorandum in April of 1968 of five names.

MR. KATZBERG: I have a copy of that memorandum.

Mr. Ryan, do you have the original? I believe it is Defendant's Exhibit EE.

I will use the Xerox copy in the meantime.

Q This is a copy of that memorandum we discussed.

(Document shown to witness.)

MR. NAFTALIS: I object. He went over this yesterday. It has been asked and answered, unless he is going on to something new.

THE COURT: You may ask the question.

MR. KATZBERG: Thank you, your Honor.

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Q Sir?

A Yes .

Q According to that memorandum you and Mr. Powell and Mr. Maass discussed the fact that Mr. Brooks, Mr. Dalhman, Mr. Gidge, Mr. Saunders, Mr. Slade and Mr. Van Nese Darling would receive a $1700 salary increase?

A Yes.

Q And you had discussed that prior to the memorandum of April 18, 1968?

A It says so.

Q You know how much prior to the memorandum you discussed these salary increases?

A No, but the memorandum says it is discussed with you and Mr. Clifford this date, which is April 15th. if that is correct, it was that date.

Q Now, isn't it a fact that those salary increases for those individuals, the $1700 increases, were for the club?

A Yes, I would assume so.

Of course, that was the amount of raises for the club.

Q Isn't it a fact that those raises likewise were not proposed to the Board of Directors for their approval?

A I do not know that. I would have to look at

the records.

Q Let me show you the Board minutes, Exhibit 163 -- let us first look at the meeting preceding the increases in April of 1968. Let us start with March 28.

Were you present at that meeting, sir?

A Yes.

Q Could you look through the minutes of March 18 and tell us whether or not there is any discussion of $1700 salary increases for Mr. Brooks, Mr. Dalhman, Mr. Gidge, Mr. Saunders, Mr. Slade or Mr. Van Nese Darling?

Let me help you, sir.

(Document shown to witness.)

I believe you are into April. Do you want to finish with March first?

A It says "Employee salary increments, personnel department, totaling $20,874, effective April 1, 1968."

Q Those are employees and not officers; is that correct?

A Employees.

Q Let us confine ourselves to officers, Mr. Brooks, Mr. Dalhman, Mr. Gidge, Mr. Saunders --

A Evidently if it came up, it isn't in the minutes.

Q How about the next meeting, April 11th? Were

you present on that date?

A 1763

A Yes.

Q Can you look at it to see whether or not there was any discussion of the contribution increases for those people that I have listed on that date?

A Is that April 11th?

Q That is the next meeting, sir.

A This is a continuation.

Q Look at the beginning, sir. This is the beginning of April 11th, do you see it there?

A No, sir.

Q What about the very next meeting, April 25th? You were present, were you not, sir?

A Yes.

Q Is there any discussion?

A The Chairman of the bank also seems to be present at all these meetings, Herman Maass.

Q You were present as well?

A Yes.

Q Would you see if there is any discussion of $1700 salary increases for Mr. Brooks, Mr. Dalhman, Mr. Gidge, Mr. Saunders, Mr. Slade or Mr. Van nese Darling.

A No, sir.

Q You knew about those raises, Mr. Powell knew

about those raises, and Mr. Maass knew about those raises; is that correct?

A Yes.

Q I believe you told us yesterday that Mr. Dowd never asked you who should be recruited into the club. He never consulted with you as to the names of the people to be recruited?

MR. NAFTALIS: Objection, that was not his testimony.

THE COURT: He can ask the question.

Q Is that correct?

A That is not entirely correct. We didn't get into names. We got into dollar amounts and anybody above that was supposed to be recruited. It was somewhere around $20,000.

Q Was --

MR. NAFTALIS: He hasn't finished. Don't interrupt.

THE COURT: Mr Naftalis, you have no right to do that.

MR. NAFTALIS: I should have directed the question to your Honor.

THE COURT: He is trying his case as he sees fit.

MR. NAFTALIS: May I make the request of the Court that Mr. Katzberg not interrupt the witness?

THE WITNESS: The arrangement that I had with Mr. Dowd, he was to ask everybody above a certain salary, who had to be a vice president, as I recall, and I assumed everybody in that category was asked.

Q There was no names discussed?

A It wasn't necessary. It was an all-inclusive group of people.

Q There were no names discussed?

A Not that I recall.

Q The only discussion was that the officers would have to be of a certain salary level?

A Certain title.

Q What was that salary?

A I'm not sure. I'd be guessing. I thought it was around $20,000.

Q Isn't it a fact that when you spoke to Mr. Langdon you told him that the officers participating in the club each were making $20,000 or more?

A At one time that was so. I do not know whether it was and we moved that up or not.

Q Certainly in 1967, 1968 and 1969 you testimony is that $20,000 was the figure?

A I am not certain of the figure. If that was the figure then, everybody making that salary with the title of vice president was supposed to be invited into the club.

Q And nobody making less?

A That's the hope we had.

Q That was your understanding?

A That was my understanding that that was the way it worked.

Q I want to show you Exhibit EE, a Xerox copy.

Those are the $1700 salary increases that you approved for Mr. Brooks, Mr. Dalhman, Mr. Gidge, Mr. Saunders, Mr. Slade and Mr. Darling?

To the right there is some figures?

A Yes.

Q How much was Mr. Brooks making?

A I don't know. I don't know whether --

Q $15,750?

A Yes.

Q How about Mr. Saunders?

A It is not clear.

Q $15,500?

A I can't read it.

Q Doesn't it say $15,500 -- $1700, $17,200?

A I don't know what the second figure is. It is blurred.

Q Doesn't it look like $15,500?

Certainly less than $20,000.

A The first figure is clear.

Q And Mr. Slade was making $18,000?

A That is correct. Maybe the figure was $15,000. I told you I am not certain of the cut-off figure.

Q Did you go to Mr. Dowd and say, "How come you are asking people to join the club who are making less than $20,000"?

A No, because I tell you the figure of $20,000 was a figure set at some point. Whether it was a figure set in '66 or '67, I don't remember.

Q Is your recollection that it was after this period of time --

MR. NAFTALIS: Objection to "now it is your recollection."

THE COURT: Yes.

Q Mr. Clifford, what difference did it make if the officer was getting the $1700 salary increase to pay the contributions and the taxes -- what difference did it make what salary he was getting?

A Because we didn't want to get down to a VP,

branch manager, assistant cashier, assistant manager. We wanted to put it into the top people of the bank. Those are the people I hoped would go to the dinners and do the most effective job for the bank.

Q The criteria was not money, it was title?

A The people with the better ability wouldget the higher salary. At least I hoped that was the case.

Q The criteria was not necessarily salary but it was ability and it was title; is that correct?

A It was both, sir. Both salary and title and hopefully we could get the mature people who could do the most effective job by going to the dinners.

Q People that could be trusted?

A That could be effective, I think, is the word.

Q You didn't consider whether or not these people who were participating would be trustworthy at all?

A I thought everybody in the bank was trustworthy, if they weren't they should not have been in the bank.

Q Trustworthiness was not a consideration; is that what you are saying?

A Not at all.

In a bank everybody is supposed to be trustworthy.

S:jk
M R4

Q The raises continued, did they not, through 1968 and into 1969; isn't that correct?

A I don't recall the dates. We had a program that I was familiar with and carried out by people under me and if they continued, they continued.

Q You had no knowledge of that?

A I didn't say I had no knowledge. I said we had a program. If the raises continued as new people came into the club, I would expect that they would have gotten raises.

Q Isn't it a fact, sir, that there came a time in 1970 when it was decided that instead of $1,700, the contribution increase would be $2,000?

A I understood that, yes.

Q Whose decision was that?

A I don't know.

Q You have no idea?

A I have no idea, yes. I would have thought it would have been Mr. Dowd's decision.

Q To the best of your recollection, Mr. Dowd decided that the raise should be $2,000?

A Yes, he may have discussed it with me. Probably did.

Q Thinking back, give us your best recollection as to the conversation between yourself and Mr. Dowd, concern-

ing making the contribution increase to $2,000 instead of 1,700.

A The best recollection I have is that I knew about it. My best recollection is that I must have discussed it with Mr. Dowd and a specific conversation I don't recall.

Q Did you approve it, sir?

A Yes, anything Mr. Dowd did had my approval.

Q Could you tell us the reason that the salary increases were increased to $2,000 as to some officers?

A I don't know the reason. It could have been to round out the salaries.

Q Isn't it a fact that some people still got 1,700 and others 2,000?

A I don't know.

Q You have no recollection of that?

A I have no recollection.

Q At any rate, in late 1970, early 1971, another group of officers received contribution increases; is that correct?

A I don't know without your showing the records.

Q Let us look at some records.

Isn't it a fact that in late 1970, early 1971, Mr. Casey, Mr. Doud, Mr. Maass, Mr. Groskoph, Mr. and Mr. Gargano and Mr. Merolla all received club raises?

A A lot of them received as high as $5,000 and presumably that included the fact that they were in the club and this was a raise for that purpose.

Q These were combination raises; is that correct?

A I do not think they gave them 3,000 and 2,000 separate. I think they gave them a $5,000 raise --

Q And part of that was for the contributions and part was for merit?

A If that was the case.

Q Isn't that correct?

A If they were contributors.

Mr. Travers got raises and he did not contribute.

Q I am asking with respect to Mr. Casey, Mr. Robert Doud, George Maass, Mr. Groskoph, Mr. Gargano and Mr. Merolla.

A I don't remember their raises. I remember raises of $5,000.

Q 2,000 for the club?

A I presume. I didn't speak to him about it.

Q You don't recall Mr. Casey coming into your office after he received a raise and thanking you for the raise?

A Yes.

Q And you recall, do you not, your saying, "How

much did you get?"

And Mr. Casey said, "$5,000, but 2,000 was for the club"?

A I don't think it is true. I knew what he got. I knew that he got 5,000, because I debated it with Mr. Doud at some length beforehand.

Q You were here when Mr. Casey testified as to that conversation?

A I heard what he said.

Q And you recall that Mr. Casey said that he told you that $2,000 of the 5,000 --

A I heard he said that. I am telling you he didn't say that.

Q You deny that?

A Yes, I deny that. I knew what he was getting.

Q Isn't it a fact that in December of 1970, when those raises, the $5,000 for Mr. Casey, the 4,200 for Mr. Doud, che 3,700 for Mr. Maass, the 5,000 for Mr. Groskoph, 4,500 for Mr. Gargano and the 5,000 for Mr. Merolla were presented by Mr. Dowd to the Board of Directors, neither you nor Mr. Powell nor anybody else told the Board of Directors that part of these increases were for the club?

A I think most of the directors knew.

Q The question is, Mr. Clifford, isn't it a fact

that no mention was made of the contribution part of those increases to the Board?

A I don't think it was. I have no recollection that it was or not.

Q Do you want me to show you the Board of Directors minutes?

A That doesn't say anything. We had nobody taking down word for word what went on in the board. Whatever the person remembered that was taking the minutes, dictated them that afternoon or the next morning.

Q By December of 1970, you were now the Chairman?

A Yes.

Q And you were now setting the agenda?

A Yes.

Q And Mr. Powell was now the Secretary to the Board? Isn't that correct?

A I think he was a director. He was not Secretary to the Board until he retired, as I recall.

Q Would you just take a look, sir, and see who signed the minutes of December 22, 1970.

You were present, were you not?

A Yes.

Q Mr. Powell was present, was he not?

A Mr. Powell?

Q Was he not?

A At that time there were four salaried officers who were members of the Board: myself, Frank Powell who was the Vice Chairman of the Bank, Mr. Travers, and Mr. Spitzbart. I signed the minutes and Mr. Powell attested to them.

Q As Secretary of the Board?

A I don't know -- I thought he became Secretary to the Board when he retired, when he was no longer a director.

Q Would it refresh your recollection if I told you he became Secretary to the Board in 1969?

MR. RYAN: December.

A You know that to be a fact; I had forgotten. For some reason I thought he became Secretary when he retired as a Director.

Q In the minutes of December 22, 1970 is there any reference to political contributions being part of salary increases?

MR. NAFTALIS: Objection, asked and answered.

THE COURT: Let us hear the answer again. I believe he has answered it.

Do you have an answer to that?

A Yes, there is a paragraph in here:

"Officer increases, title changes, new appointments" and it says that Mr. Powell, Executive

Vice President, then submitted a schedule of officer increases, and so forth, new appointments. The recommendation of salary increases were approved, effective January 1, 1971, schedule showing total increases, and so on, attached and made part of the minutes.

Q Does it say a word there about political contributions?

A No, sir.

Q Or salary increases for the purpose of political contributions?

A No, it does not.

Q I want to show you the attachment, Exhibit 167 in evidence, and I want you to look at that attachment and tell us whether or not there is any reference in the Casey raise, the Doud raise, the Maass raise, the Groskoph raise, the Gargano or the Merolla raise, that any part of those raises was for the purpose of making political contributions; yes or no?

A Who were the people, Casey, Merolla --

Q Carmen Merolla.

A Right.

Q Robert Doud. George Maass, Ralph Groskoph --

A Let me find them, please.

That was Robert Doud?

Q Yes, D-o-u-d.

A Okay, those four I found.

(continued next page)

CROSS EXAMINATION

A 1777

BY MR. KATZBERG (Continued):

Q Is there any reference that any part of their salary was for the purpose of political contributions?

A No. They just recommend the salaries.

Q No reference to contributions?

A No.

Q When the board approved those raises they were not told that part of those raises they were approving were for the purpose of making political contributions?

A I don't recall.

Q You signed the minutes to that.

A Yes.

Q The minutes say nothing?

A Many that were taken up at the board that are not in the minutes.

Q Did you intentionally leave that out?

A No.

Q You wanted the board minutes to be accurate?

A They are very skimpy compared to the data discussed.

Q Isn't it a fact you wanted those board minutes to be accurate as to the important matters that took place?

A Yes. The fact that we kept out mergers with other banks, or property purchases, because people would read it and there was a lot we kept out.

Q Did you ever keep out intentionally salaries?

A I didn't.

Q You wanted the minutes to be accurate?

A In principal.

Q You would review the draft to see it was accurate?

A Not necessarily. Maybe Powell would and I'd read it and sign it.

Q You would read the minutes before you signed it?

A Not in the rough . I was in the city and Frank Powell would get them typed and I'd read them and sign them in final form.

Q You read them to make sure it was accurate?

A Yes.

Q If something was left out you would put it in?

A Yes.

Q You signed these references and there is no reference to the political contributions references.

MR. NAFTALIS: This is the tenth time.

THE COURT: Yes.

Q Isn't it a fact these minutes in all of the years there is not a single reference during the years you signed them, there is not a reference to the political contributions program at the bank?

A I don't know. I'd have to read them all.

Q Do you remember when Miss Reddy testified and was asked whether or not her review of the minutes and to her recollection was there a reference to political contribution raises in the minutes, do you remember she said no?

A I think that was the time when Mr. Maass was the chairman and she was an executive officer.

I don't recall the covering nine years. I thought the questions were raised as to October '67 raises.

Q Do you accept her representation that there is no reference to the contribution raises or contribution club in those minutes?

A I'd like to set my own by reading the years of the minutes before I swear on a stack of bibles.

Q You certainly recall no reference?

A No.

Q Now, to the subject of postage stamps, do you recall you testified in 1966 you got a phone call from somebody in the Arthur Levitt Campaign?

A Yes.

Q That person asked you to do certain things with respect to his political campaign.

A Yes.

Q You said you agreed to make a contribution of $500 in postage stamps to the letter campaign.

MR. NAFTALIS: I object to contribution he agreed to give him.

Q ISn't it a fact you agreed to give the Levitt campaign $500 in postage stamps?

A Yes.

Q Isn't it a fact the purpose of that was for their mailing?

A Yes.

Q They were going to send out also to the constitutents in order to get them to vote for Mr. Levitt.

A I assume so.

MR. COHN: I --

A Yes.

Q This is around September of '66?

A I thought it was earlier. I couldn't fix it.

Q In order to get these stamps you looked for Mr. Powell and he wasn't there.

A Right.

Q Instead, Mr. Barrie was there, George Barrie?

A Yes.

Q You told Barrie you wanted him to get the postage stamps, send them over to the Levitt campaign?

A Yes.

Q The message was this is coming from Pat Clifford?

A Either the bank or Mr. Clifford.

Q Do you remember Mr. Barrie testified to that?

A I don't recall.

I'm sure I wanted the bank to be identified.

Q You wanted the Levitt campaign to know where the stamps came from?

A Yes.

Q You caused Mr. Barrie to go to the appropriate place at the bank and get a bank check?

A No.

MR. NAFTALIS: I object.

THE COURT: No, he can testify to that.

Q Did you tell Mr. Barrie he was to take the money for the stamps out of his own pocket?

A No, I thought he's use stamps we had because we had tremendous mailings.

Q You heard Mr. Barrie say he testified -- he testified he got a check and he got it out of bank funds.

A 1782

A He didn't tell me at the time. I said can we supply $500 worth of stamps for the Levitt campaign and I never knew how he did it until he testified.

Q You understood it wasn't out of his pocket?

A I expected him to use bank stamps.

Q Purchased with bank money?

A Yes.

Q The stamps were delivered?

A Yes.

Q You got that embarassing phone call that not enough stamps were delivered?

A Yes. I asked him to deliver the remainder.

Q As you recall from Barrie's testimony, another bank check was obtained and more bank money was used for stamps?

A No question about that.

Q Those stamps were delivered to the Levitt campaign?

A Yes.

Q You testified on direct examination you realized at a certain point in time that what was done with the stamps was illegal.

A I realized that it wasn't proper, but I read in the newspapers, and I decided I wasn't going to do this.

A 1783

Q Which papers?

A I don't remember.

Q Wall Street Journal?

A I don't remember.

Q You read the Journal, don't you?

A Yes, but not every day.

Q Can you tell us when you realized the contribution in the form of stamps was --

A I know by election time, or just before '67 I'd been getting these requests so it must have been sometime prior to the November election of '67.

Q Your secretary was Kay Salmon at that time?

A Yes.

Q Isn't it a fact --

MR. NAFTALIS: May we approach the bench?

THE COURT: We'll take a recess now.

(The Jury withdrew from the courtroom at 11:25 A.M.)

(The following occurred out of the hearing of the Jury.)

MR. NAFTALIS: I wanted to know where he was going with Mrs. Salmon because he was precluded from that area in this case.

MR. KATZBERG: This man testified that after

1966 he stopped with the stamps; that is not true.

MR. NAFTALIS: It's true.you have no evidence to the contrary.

MR. KATZBERG: I do. If Mr. Barrie were permitted to testify he would have testified that thereafter Mrs. Salmon, Mr. Clifford's secretary, would regularly call him up on Mr. Clifford's behalf to purchase stamps with bank money --

THE COURT: It's a question as to whether he knows it or not.

MR. KATZBERG: I intend to inquire.

MR. NAFTALIS: You precluded it because Mrs. Salmon is dead and Mr. Barrie never indicated he had any converstaion with her where she said directly Mr. Clifford asked me to do it.

THE COURT: He has a right to ask him.

At this time it's a question as to whether he knows it or not. If he doesn't, that's the end of it.

MR. KATZBERG: Thank you, Judge.

(Continued on the next page.)

Q Mr. Clifford, isn't it a fact that in 1967, 1968, 1969 and into 1970 you had your secretary Kaye Salmon contact George Barrie to have Mr. Barrie purchase postage stamps for political contributions?

A It's not a fact.

Q To your knowledge did Mr. Barrie continue to purchase postage stamps during the years '67, '68, '69 and '70?

A Until he had -- until he testified here the other day I had no knowledge he continued to purchase stamps.

Q Isn't it a fact by 1970 Mr. Barrie had accumulated a couple thousand --

MR. NAFTALIS: Objection.

THE COURT: Sustained. That's a bad question. The question is never evidence.

Q Did you come to learn that approximately 1970 Mr. Barrie had accumulated about $1500 or $2,000 in postage stamps in this way?

A Not to my own knowledge. I had heard testimony to that effect.

Q Did you come to learn that Mr. Barrie transferred those stamps to Mr. Casey?

MR. NAFTALIS: Objection.

THE COURT: No, there is no testimony as to

that. You can ask him the question did he know.

Q Did it ever come to your attention that Mr. Barrie sometime in approximately 1970 transferred those stamps to Mr. Casey?

A I didn't know it at that time.

MR. NAFTALIS: Objection. When the question is not calling for anything not relating --

THE COURT: He said he did not know it.

MR. KATZBERG: That I have the answer read back.

THE WITNESS: I did not know at the time that this supposedly happened that it was happening, and I was not a party to it.

Q Did there come a time you learned Mr. Casey took those stamps from Mr. Barrie and had them delivered to a Republican Committee?

A I wouldn't even know he did. I heard testimony.

Q You had noknowledge of it yourself?

A I had no knowledge.

Q Now, the purchase of these stamps, the ones we have spoken about with reference to the $500 in stamps in 1966, you agreed to do that, didn't you?

A Yes.

Q And you did so voluntarily; isn't that so?

A Not necessarily voluntarily. I was pressured by the man who wanted me to do the mailing, and he wanted more stamps.

Q You voluntarily gave him $500 worth?

A He twisted my arm and I did it.

Q Under duress?

A He asked me to do it and I did it. I didn't volunteer. He called me and asked.

Q You did so voluntarily?

A Yes.

Q And Mr. Barrie purchased the bank stamps to buy the -- he did it voluntarily --

THE COURT: Sustained.

Q You didn't twist Mr. Barrie's arm?

MR. NAFTALIS: Objection.

THE COURT: Sustained.

Q You said your giving these $500 of stamps was voluntary on your part and yet it was still illegal?

A I didn't understand it was at the time. I have since learned it was.

Q It was illegal even though voluntary; isn't that correct?

A I have since learned that.

Q It was illegal because bank money was being

used to make the contributions?

A Yes.

MR. NAFTALIS: Objection.

THE COURT: He's answered.

Q The same is true for the contribution club?

A No. Are you talking about stamps or that we had a contribution club?

Q I'm talking about the system you had for making political contributions granting the officers raises to make $100 a month contributions.

A No.

The system was approved by counsel.

Q That wasn't approved by counsel.

THE COURT: Sustained.

Q Was the system whereby officers were given salary increases to make $100 a month contributions voluntary?

A Yes, supposed to be voluntary with the bank, but the people had to do it voluntarily. We couldn't coerce them to do it.

Q They were using bank funds to make these contributions?

A Not really.

MR. BANNIGAN: Let him finish his question.

THE WITNESS: These were permanent raises. They stayed with the person, and if he stopped contributing we could not take the raise away.

Q Isn't it a fact that bank money was being given to these officers in the form of $1700 salary increases?

MR. COHN: Asked and answered.

THE COURT: There is nothing wrong with giving raises with bank funds so the question is improper.

Of course the bank was giving increases in salaries.

Sustained.

Q That money was given to these officers specifically for the purpose of making these contributions; isn't that correct?

A Yes.

(Continued on the next page.)

A 1790

Q The increases had nothing to do with merit?

A Oh, no. In the early days the whole salary scale was lower, and it was a problem to recruit people.

New York bank people made more money than a man in Security National.

Q Isn't it a fact these raises were given only because of the contributions and because --

A And because of general merit.

Q How do you explain the raises on one-eight-sixty eight, who got a merit raise and the $1700 raise the same day?

A They were told they would get compensated having agreed to voluntarily contributed and that's the reason.

Q They got a separate merit and contribution raise the same day?

A That's right.

Q The contribution raise had nothing to do with merit?

A No, because it was a merit raise and they were entitled to contribute.

Q Weren't these officers told these raises were given to them solely for the contributions?

A I don't know what they were told.

Q You were here when all those witnesses --

THE COURT: Sustained. A 1791

Q Were the officers told that the raises would be permanent?

THE COURT: If he knows.

THE WITNESS: I don't know.

Q Were they told the money would not be taken away?

MR. NAFTALIS: Objection.

THE COURT: If he knows.

THE WITNESS: I don't know anything they were told.

Q Did you instruct Mr. Dowd or Mr. Powell to tell the officers that?

A No. I didn't feel I had to instruct senior officers what to do.

Q Did there come a time when you saw Exhibit number 162 in evidence?

A I did.

Q When for the first time did you see Exhibit 162?

A It was shown to me in this building in the last month or two.

Q You never saw it prior?

A I don't recall seeing it.

Q Look at it and refresh your recollection.

A I read it several times.

Q It's your testimony Powell never showed you that in '68 or '70?

A I don't recall that he did. He could have.

Q Is it your testimony that Mr. Dowd never showed you that in '69 or '70?

A No, that's not my testimony. I don't recall.

Q He certainly may have?

MR. NAFTALIS: Objection.

THE COURT: Yes.

Q You have no recollection of seeing this at all at that time?

A Not at that time.

Q Do you recall discussing this article with Dowd or Powell in '69 or '70?

A Not at that time.

Q When did you discuss this for the first time?

A I asked Mr. Powell and he showed me it in the witness room.

Q That's the first time you discussed it with anybody?

A Yes.

Q You never came across your readings of the

Wall Street Journal?

MR. BANNIGAN: Objection. Argumentative.

THE COURT: Yes.

Q There came a time in 1971 when you got a phone call from Mr. Langdon; is that correct?

A That's not my recollection.

Q What is your recollection?

A Mr. Powell told me Mr. Langdon was coming up and would I be available the next morning.

Q Langdon didn't call you up?

A I don't recall he did. I recall Mr. Powell asking me would I be available for a visit.

Q Do you remember Langdon saying he asked you to make an appointment to meet with you?

A Yes.

Q And that he told you the comptroller's office received an anonymous letter that illegal contributions were being made by the bank?

MR. NAFTALIS: I object.

THE COURT: He may answer.

THE WITNESS: I don't recall he called me. I thought Powell asked me would I be available the next morning, that Langdon was coming up.

Q So Mr. Langdon's testimony doesn't refresh

your recollection?

A No, my recollection is Mr. Powell wanted to be sure I would be there.

Q Then Langdon came to the bank on February 19, '71?

A Yes, he came but I don't know the date.

Q You and Powell were present and Dowd was present and Mr. Langdon was present?

A Yes.

Q When you spoke to Langdon or Powell you knew that he was there to investigate the contributions?

A No, I thought he was to show me an anonymous letter received by the Chief National Bank Examiner in New York City.

Q You knew the anonymous letter concerned the contributions?

A When I looked at the letter?

Q Prior to that time.

A I knew it wasn't an examination --

Q Is it your testimony when Powell told you that Langdon was coming about an anonymous letter you didn't ask about it?

A I know it was nothing other than an examination of the bank.

Q It's your testimony when Langdon came you didn't know his purpose?

A I don't know if Powell told me earlier in the morning -- I have no recollection that I knew it ahead of time.

Q You knew who Langdon was?

A Yes.

Q He was coming as a representative of the comptroller currency to investigate some matter?

A I don't know if it was to investigate.

Q For a social visit?

A It wouldn't' and anexamination and that requires a lot of work for the bank, ties up the officers' time.

Q He wasn't coming for a social visit?

A No.

Q An official inquiry?

A That's what it developed to be.

Q You wanted to cooperate with him?

A Yes.

Q You wanted to give him all the facts?

A That's right.

Q Before Langdon showed up did you speak to Mr. Powell about his visit?

A No, I didn't talk to Dowd and I couldn't

conceive why I would talk about the visit, but I don't remember being told the purpose of the visit other than it wasn't an examination, other than the fact I know he didn't come out on social calls.

Q Did you speak to Powell about his visit?

A I could have.

Q Do you recall whether or not you discussed with Mr. Dowd or Powell or both of them how this matter would be handled with Langdon?

A No.

Q No discussion between Powell, Mr. Dowd as to who would be the spokesman?

A As chairman I was always the spokesman.

Q No discussion as to the manner in which you would respond to these allegations?

A I'd say there was no discussion with Dowd until he was called into my office when I found out what it was.

Powell made sure I was there so Langdon didn't make a fruitless trip.

Whether Powell knew the contents and discussed it I don't remember.

Q The first matter of business was he gave you a copy to read, that is Langdon?

A Yes.

Q Then Mr. Powell read it?

A I handed it to Powell and he said he already read it just before he came to my office.

Q Then Mr. Dowd read it?

A He gave it to Dowd and I think that's the first time he read it.

Q Shortly after Mr. Langdon arrived, the three of you read the anonymous letter?

A That's correct.

Q The anonymous letter, Exhibit 171 in evidence, says, does it not "Officers of the bank reaching a certain salary level were given a supplemental raise a couple of years ago, out of which they contributed $50 per pay?

"Answer: Yes.

"Question: For 24 pay days $100 a month."

Is that correct, sir?

A That's correct, that's what it says.

(Continued on the next page.)

Q And you remembered that; is that right?

A Yes, I did.

Q So you knew that the allegation was that salary increases were granted for making political contributions?

A Among other allegations.

Q Let us take them one at a time: That was the very first allegation in the letter?

A Yes.

MR. NAFTALIS: Objection as to the first allegation in the letter.

Q You knew that Mr. Langdon was there to inquire as to whether or not this allegation, that officers received salary increases to make political contributions, was true; is that right?

A I thought he was there to inquire about the whole letter.

Q That was part of the letter?

A I thought he was there to inquire about all of the letter.

Q He was certainly there to inquire as to that part of the letter?

A Among other things. That was one of the things.

Q Part of the letter alleging salary increases; is that right?

A That's correct.

Q Mr. Lang went over the contents of that letter point by point, did he not?

A He did not.

Q He did not?

A No.

Q Do you remember him testifying here?

A I don't remember him testifying to that.

Q You don't, sir?

A No.

Q He certainly went over that allegation, isn't that right, about the salary increases?

MR. NAFTALIS: Objection. That is not Mr. Langdon's testimony.

THE COURT: He asked him if he went over that allegation. He can say yes or no.

A Are you saying that Mr. Langdon testified here --

THE COURT: We are past that.

Did he discuss that allegation with you, that is, that letter?

THE WITNESS: No, I do not think he did.

Q Your testimony is that Mr. Langdon did not go

over the anonymous letter point by point?

A That is my recollection.

Q Do you recall when Mr. Langdon testified at this trial?

A Yes, I recall him testifying.

Q Page 2332, do you recall this question being asked and Mr. Langdon giving this answer --

MR. BANNIGAN: I will object to that.

THE COURT: Yes, he need not adopt the statement of another witness to show its credibility. Objection sustained.

You cannot do that during the trial. That is for the jury to do.

Q Getting back to the allegation of the officer salary increases, to make political contributions:

There came a time when Mr. Langdon asked you whether or not that was true; is that correct?

A I don't recall that he asked me whether that was true. He asked another question.

Q Mr. Langdon didn't ask you whether or not the allegations in the anonymous letter, that officers received salary increases for contributions was true?

A Mr. Langdon asked very few questions. I think I was concerned in this letter with an allegation that

Mr. Shea, our counsel, had done something improper. That was my big concern and that was the first order of business.

MR. KATZBERG: I move to strike out the answer as not responsive.

THE COURT: Yes.

MR. KATZBERG: May the question be read back?

THE COURT: The first part should stand, that he did not.

(Question read.)

THE COURT: You may answer that question.

THE WITNESS: I do not recall him asking me specifically about the raises. He asked very few questions.

Q So you have no recollection that Mr. Langdon asked you whether or not officers received raises for political contributions; is that right?

A I think he asked me a question, not along those lines, but to elicit the information. He asked, "Do you pay these fellows back, give them their money back?"

Q What did you say?

A I said, "We don't have any phony expense tickets, any -- we are not doing that kind of thing. We have a program here.

Q You knew, did you not, after having read the

ar ymous letter that the allegation was about salary raises?

MR. BANNIGAN: Objection, argumentative.

THE COURT: I will allow the question.

Q Did you, sir?

A I knew that was among many of the allegations in the letter.

Q Isn't it a fact that you denied to Mr. Langdon that salary raises were given for that purpose?

A I did not deny it. He did not ask it of me like that. He said, "Pat, are these fellows getting their money back in any way?"

And I assumed he was asking whether we were slipping them cash or putting in phony expense tickets. He was a pretty bright guy. He knew what was going on.

Q So you never told Mr. Langdon, did you, sir, that officers were indeed receiving salary increases for contributions?

A I don't think he asked the question and not having asked the question, I don't think I answered. I felt I answered when I told him we were not giving people their money back, we were not slipping them $100 bills or taking it through phony expenses.

Q But the allegation was not about phony expense accounts --

MR. NAFTALIS: Objection.

THE COURT: It becomes argumentative now.

MR. NAFTALIS: You do not have to answer the question.

Q Your testimony is that Mr. Langdon did not specifically ask whether or not raises were given; is that correct?

MR.NAFTALIS: Objection, asked and answered.

THE COURT: That is what he said.

Q Is that correct?

A Correct.

Q And Mr. Langdon did not ask the specific question and you did not tell him; is that correct, sir?

MR. NAFTALIS: Objection, your Honor, argumentative.

A Yes, there is no duty to answer a question not asked.

MR. KATZBERG: This is cross-examination.

THE COURT: You cannot answer a question not asked. If you do not ask me a question, I cannot answer you. That follows. That is what you are asking of him. If he wasn't asked, he did not have to volunteer, nor does any witness, whether a Government witness or defense witness, whether asked by the

Government or the defense.

Q So you never told Mr. Langdon that salary increases --

MR. NAFTALIS: Asked and answered.

THE COURT: Yes.

You may answer it again, did you hear the question?

THE WITNESS: No, you had better repeat it.

Q This is the final time.

So you never told Mr. Langdon that it was true that officers did receive salary increases for the purpose of making contributions?

A No, I thought I answered his question on whether the officers were given the money back.

THE COURT: That is what he said. That is the answer.

Q Now, the unanimous letter, which you read, also alleges, does it not, that postage stamps were used; is that correct?

A That is correct.

Q And there came a time, did there not, when Mr. Langdon asked you whether or not that was true?

A No, he did not ask me. He did not ask me the question. I think I was reading the letter and going down it

with him. We spent a lot of time on the allegation as to Shea, on postage stamps, and I answered and if I did not have the answer, I turned to Mr. Powell and turned to Mr. Dowd and said, to my knowledge, the officer contributions were not by postage stamps.

I said to Frank, "You have been handling the money. Do you know of any cases?"

And he said 'No," and Powell said, "No, I know of no cases," and that answer would be true today.

Q And you know you asked Mr. Barrie to make political contributions in the way of postage stamps?

A Not with Barrie's money.

Q With the bank's money?

A With the bank's money.

Q And you knew indeed that the bank made political contributions through postage stamps?

A In 1966 that was correct.

Q Did you tell Mr. Langdon that the bank had in fact made political contributions using postage stamps?

A No, the question did not come up in this letter. He didn't ask the question and I didn't volunteer.

Q Isn't it a fact that the anonymous letter, Mr. Melsha's letter, as you know now, isn't it a fact that that letter does not allege that postage stamps were purchased

with club money?

A Yes, it does.

Q Read the sentence to us now, sir, where it says that postage stamps were purchased with club money.

A "Or sometimes these kickbacks were in cash, the proceeds of which were used as inducement for demand deposits. The usual manner of pay was in regular U.S. postage stamps," and he is talking about the officers' contributions.

Q Where does it say in that letter that the stamps were purchased with the officers' contributions?

MR. NAFTALIS: I object as argumentative.

THE COURT: He can ask that question.

A It says in the second paragraph, the first sentence:

"Officers of the bank reaching a certain salary level were given a supplement raise a couple of years ago, out of which they contributed $50 per pay or 24 pays, $100 a month, sometimes these kickbacks were cash, the proceeds of which were used as inducement for demand deposits. The usual manner of payment was in regular United States postage stamps."

He is talking here about contributions.

Q The letter does not say that the postage stamps

were bought --

THE COURT: The interpretation is for the jury. That is the witness' answer.

THE WITNESS: That is the only way I can interpret it.

THE COURT: That is where it is.

Q So you told Mr. Langdon that is not true?

MR. NAFTALIS: Objection, asked and answered.

MR. KATZBERG: That wasn't asked and answered.

THE COURT: I will let him answer.

You told Mr. Langdon that that was not true, that is the question.

THE WITNESS: I told Mr. Langdon --

THE COURT: Yes or no.

THE WITNESS: The answer is no.

THE COURT: That is all.

THE WITNESS: It is not true, that they were using the money --

THE COURT: You have answered. You do not have to add anything.

THE WITNESS: I have forgotten the question.

MR. KATZBERG: May I have the question read back?

THE COURT: You told Mr. Langdon that that was

not true --

THE WITNESS: I have to know what I told Mr. Langdon was not true.

Q You have forgotten what was not true? It refers to the portion of the letter that you read.

THE WITNESS: That officer contributions were used to buy postage stamps, I told Mr. Langdon that that is not true. That is what I mean to say.

Q And you never discussed the fact that postage stamps were purchased with bank money?

A No.

MR. NAFTALIS: Objection, asked and answered.

THE COURT: He said, "No."

THE WITNESS: No.

(Continued on next page.)

Q After Mr. Langdon left, did you have a conversation with Mr. Powell and Mr. Dowd?

A David Dowd or Robert?

Q David Dowd.

A I could have. I don't know whether they stayed in my office and we talked. Mr. Langdon had other matters that he brought up and mentioned to me briefly. They had nothing to do with the letter and had to do with banking matters and I asked him to check it out.

Q Did you or did Mr. Powell or Mr. Dowd, after the Langdon meeting broke up, have a conversation about that meeting?

A It would be natural to have. I don't recall. I would think it would be natural.

Q Could you think back and give us your best recollection?

A I am certain that we had a conversation. I don't recall it specifically. It would be a natural thing for me to do.

Q And Mr. Dowd was present and Mr. Powell was present; is that right, sir?

A I don't know whether Mr. Dowd left my office or Mr. Powell stayed or they both stayed and we talked about it. I'm sure I talked to one of the three principals about it.

Q Would you give us that conversation?

A I don't remember. It would be a general conversation.

Q Your mind is a total blank on that conversation?

MR. COHN: He said he does not remember even if there was such a conversation.

THE WITNESS: There may not have been one. They may have both left.

Q So if there was one, you don't recall?

MR. NAFTALIS: Objection. Asked and answered. Argumentative.

Q And there came a time, did there not, shortly after Langdon visited your bank when you met with Robert Doud and George Barrie and Frank Powell about that anonymous letter; is that correct?

A I remember having a meeting with them. I don't know whether it was with respect to the anonymous letter.

Q Mr. Powell was present?

A As I recall.

Q You were present?

A Yes.

Q And Mr. Robert Doud and George Barrie were brought into the main office; is that correct?

A Yes.

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Q Who asked them to come in?

A Mr. Powell had indicated to me, either at the meeting with Langdon or later, that he thought he knew who wrote the letter but he was not sure and I said "Forget it if you are not sure."

I was trying to find out, because I had a serious problem in telling Mr. Shea about the allegation against him. I just wanted to know who had written the letter, if we could pinpoint it.

Q The question is who requested Mr. Robert Doud and Mr. George Barrie to meet with you?

A I don't recall, could have been me or Mr. Barrie -- or Mr. Powell could have said "Let's see if we can find out who composed that letter."

Q And this was after the Langdon meeting?

A Yes.

Q How soon after the Langdon meeting was this?

A I have no recollection. It could have been the same afternoon, it could have been a week later.

Q Is it fair to say it was shortly thereafter?

A It had to be, yes.

Q When Mr. Doud and Mr. Barrie were present and you and Mr. Powell were present, you asked Mr. Barrie and Mr. Doud whether or not they knew who wrote the letter; is

that correct?

A That is correct.

Q And they didn't know?

A They said, "Have you heard anything about an anonymous letter?"

I was then going into Mr. Shea to tell him about it because there were some serious allegation against him.

Q The question relates --

MR. NAFTALIS: I think he asked the question and it has been answered.

Q The question is, is that the conversation between yourself, Mr. Doud, Mr. Barrie and Mr. Powell?

Isn't it a fact that you asked them what they knew about the anonymous letter and they said they didn't know anything about it?

A I know I asked the question, yes.

Q Isn't it a fact --

A Nobody knew the answer.

Q They did not know?

A That's right.

Q Isn't it a fact that the reason you asked George Barrie to be at that meeting was because you knew that Barrie was the one who got the stamps?

A No.

MR. NAFTALIS: Objection, argumentative.

THE COURT: I will allow the answer.

THE WITNESS: It is not a fact, no.

Q There was no connection in your mind between the fact that the letter alleged that stamps had been used for contributions and your asking Mr. George Barrie as to whether or not he knew anything about the anonymous letter?

A Nothing to do with it. I had them there because Mr. Powell thought it came from a man in the operations section and Mr. Powell was in charge of the operations section and Mr. Doud and Mr. Barrie were second and third in operations and I wanted to try and pinpoint it. I wanted to clear up the Shea matter. I thought it was serious enough that we might lose our counsel and he would get mad at us.

Q The man who you believe wrote the anonymous letter was Harry Melsha?

A I was told that. I didn't know his handwriting. We did not keep the letter. We handed it back to Mr. Langdon so I couldn't have shown anybody the handwriting. But Mr. Powell thought he had written it, but he admitted he wasn't sure.

Q He believed it was Melsha?

A That was his qualified belief.

Q To find out whether or not it was Harry Melsha,

you asked George Barrie?

A I asked all the people at that meeting, Mr. Dowd, Mr. Robert Doud, Mr. George Barrie and Powell, had they heard anything about people saying anything about getting improper legal fees.

Q Did you ask Mr. Melsha?

A No, I did not ask Mr. Melsha.

Q Isn't it further a fact in that meeting between yourself, Mr. Robert Doud, Mr. Powell and Mr. Barrie, you spoke to Robert Doud and you told Robert Doud that you had met with the controller's representative and he was satisfied that the club -- that the contributions method was perfectly legitimate?

A I never said that. I said I met with Langdon. He heard the story on the club and before he left the bank that day he said:

"I like this club idea. It is a lot better than what the other fellows are doing."

Q That was what you told Robert Doud?

A I could have said that

Q It is your testimony that Mr. Langdon came back and told you the same day that he approved the club?

A He didn't say he approved the club. He said he liked the club and he said it is a lot better arrangement

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than I have seen in other banks.

Q That is what Mr. Langdon told you?

A That is what he told me.

Q No doubt about that in your mind?

A No doubt about that in my mind.

Q You told Robert Doud that?

A I told the group at the meeting.

Q Meaning that Mr. Langdon told you that he liked the club?

A Something to that effect. The substance of it was that he thought it was better than other arrangements that he had seen.

Q Did you tell him at that time that officers received salary increases for the purpose of making contributions?

A It was a very short conversation. He came in to say goodbye and on his way out he made that comment.

Q Did you tell him --

A I had no other conversation with him other than "goodbye" and his comment that he liked our setup better than others that he had seen.

Q You didn't tell him that the officers received raises?

A I didn't tell him anything. I said "goodbye" to

him and he made that comment.

Q You didn't tell him then and you didn't tell him in the official meeting about the raises, did you, sir?

A No, sir.

Q Now there is testimony in this trial, Mr. Clifford, that in approximately Marchof 1971 -- February or March of 1971, Mr. Powell spoke to Mr. Brogan and asked him to eliminate references on the visi cards to the contributions and the salary increases. Do you recall that, sir?

A I recall the testimony.

Q Did you know, sir, that asterisks had been placed to the right of the $1700 salary increases --

A No, sir.

Q -- that the officers received in 1967 and 1968?

A Did I know it know it when?

Q When for the first time did you learn?

A When I heard it in the bank long after the investigation started.

Q Mr. Powell never told you in 1967 and 1968 that that had been done?

A No, sir.

Q There was no discussion between yourself and Mr. Powell or Mr. Dowd wherein it was decided that since the question of the club had been raised, that the references to

the political contribution increases, the asterisks, should be removed?

A I didn't know they were on and I don't have any recollection of asking to remove them. I never knew they existed at that time.

Q So Mr. Powell asked Mr. Brogan to remove them, he did that without your knowledge or consent?

MR. BANNIGAN: I object. It is a hypothetical.

THE COURT: I will allow it.

Q Is that correct?

A Repeat that?

MR. KATZBERG: I will rephrase it.

Q So when Mr. Powell told Mr. Brogan to eliminate the asterisks on the visi cards he did so without your knowledge or consent; is that correct?

A That is correct.

Q Now, you told us yesterday you might recall that Mr. Dowd in 1969 told you that he had asked Martin Travers to participate as a contributor; is that correct?

A Yes.

Q And you told us, did you not that Mr. Dowd reported to you that Mr. Travers refused?

A Yes, sir.

Q And told us, did you not, that you told Mr. Dowd

when he reported Mr. Travers refused, that you wanted to leave Mr. Travers alone?

A Something to that effect, yes.

Q That since he refused he shouldn't be bothered, he should be left alone?

A I reminded him of the word "voluntary" that we used frequently when we set it up. I said "Here is an example, don't badger him."

Q Leave him alone?

A Yes, and I told him that I would leave him alone too.

Q You told him that you would leave him alone too?

A Yes.

Q Isn't it a fact that you did not leave him alone?

A It is not a fact.

Q Isn't it a fact that within a week or so after Mr. Dowd had approached Mr. Travers and Mr. Travers had refused to contribute, you yourself approached Mr. Travers?

A Absolutely untrue.

Q Isn t it a fact Mr. Clifford, thatyou said to Mr. Travers:

"Dave told me that you don't want to go along

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with this. I want you to reconsider."?

A Absolutely untrue.

Q Isn't it a fact, Mr. Clifford, that you told Mr. Travers that you wanted people at the bank to be members of a team and that as a memberof the team that he should be going along with this?

A You are talking '69 now?

Q I am talking right after Mr. Dowd first approached you about Mr. Travers.

A It is not a fact. It is absolutely untrue.

Q Never happened.

A Never happened at that time.

Q Do you recall Mr. Travers testifying in this courtroom, sir?

A I heard him.

Q Do you recall Mr. Travers telling the jury and telling his Honor --

MR. NAFTALIS: Objection as to what he recalled Mr. Travers saying.

THE COURT: Sustained. He does not have to adopt the testimony of another witness. It is for the jury to decide.

(Continued on next page)

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BY MR. KATZBERG:

Q So it is not true, is it, that you went to Mr. Travers?

A It is not true. I think he is mistaken. At that time until the day he left I never discussed it with Mr. Travers and in my own mind as to this voluntary program, he is one of the best examples.

Q Mr. Travers never told you, sir, that you can't tell people whom to contribute to?

A No sir, I never discussed it with Mr. Travers. I know Mr. Dowd was upset, because he was going to dinners and other people were paying for his tickets.

Q That didn't happen either, did it sir?

A Pardon?

MR. NAFTALIS: Objection, asked and answered.

THE COURT: I do not think he heard the question.

Q That never happened either?

A What never happened?

Q Mr. Travers telling you that you can't tell people to whom they should contribute?

A That never happened.

Q Now, there came a time, Mr. Clifford, did there not in late 1970 when the club was expanded; isn't that correct?

A I believe it was expanded. The time frame I am

not certain of.

Q Let us see if I can refresh your recollection: As of the spring or summer of 1970, there were approximately twenty-seven people in the club; isn't that correct?

A I don't know.

Q No idea?

A I knew we had a number of people. I didn't know the exact number.

Q Never asked Mr. Dowd?

A I was never that interested.

Q Didn't matter?

A Not to me.

MR. NAFTALIS: Objection, it didn't matter.

Q Would it refresh your recollection that in the summer of 1970 approximately twenty officers were proposed for this expanded club?

A Wouldn't be surprised. I knew the club was being expanded. Numbers I don't recall.

Q Whose decision was it to expand the club?

A Probably all of us.

Q When you say "all of us" who do you mean?

A If that was after the 15,000 Shea loan, I know I was pushing them to cut down on taking tables. I wanted

Mr. Shea paid. I made no bones about it. I said, "You do it two ways, bring new people in" or as I preferred "stop going to some of the dinners."

I wanted Shea paid because I felt I was liable.

Q Who did you tell that to?

A In 1970 I am not sure -- Mr. Dowd.

Q How about Mr. Powell?

A I don't know. I don't recall. I didn't have to do much with Mr. Powell on this club.

Q It was you and Mr. Dowd that decided to expand the club?

A I don't know whether we both decided or I decided. I wanted to get Shea paid two ways, spend less money or bring in new members.

Q So you decided to bring in new members?

A I decided -- we decided to spend less money.

Q Is it your testimony that in 1970, 1971 and 1972 you spent less money?

A I didn't say we spent less money. The money spent kept going up, every branch manager, his dinner or his contribution was a matter of life and death, and I said it was nonsense.

Q Isn't it a fact that contributions increased in 1970, 1971 and 1972?

A We had risen to three, 4-hundred million a year and I would expect it would have increased. I was trying to cut down the unnecessary expenditures.

Q So it is a fact that the contributions increased?

A I don't have the figures. I would assume they would have.

Q So you determined in order to generate more money the club would have to be expanded; is that correct?

A A lot of people left the bank, new people had come in, and the feeling was we should ask additional people to contribute on a voluntary basis to cut down, because I wanted Mr. Shea's debt paid. It was entirely too large for me to accept the moral obligation of it.

Q The club was expanded from approximately twenty-seven members to approximately forty some-odd members?

A I don't know that. I never had the totals. If I had, they are out of my mind.

Q Who chose the people who would be brought into this expanded club?

A We had a rule that we asked everybody above a certain salary, without going back to Travers, for he had refused.

The rule was that we'd ask those people and I am sure Dave Dowd and others were working with them on this

club -- asked everybody.

Q Certain salary, $20,000?

A I am not sure. It could have gone up as a bank group. I remember the figure 20,000 for some reason.

Q How many vice presidents were there at the Security National Bank in approximately 1970?

A I haven't the faintest idea.

Q More than a hundred?

A We had three hundred officers. I wouldn't know how many vice presidents. There are all types, senior, executive, administrative and regular vice president.

Q Isn't it a fact that there were at least forty or fifty officers at the bank making in excess of $20,000?

A I would have to look at the records.

Q Does that sound about right?

A I don't think so. I do not think there were a hundred vice presidents. That sounds awfully high.

Q Isn't it a fact that in 1970, when the club was expanded, there were at least forty officers at the bank making in excess of $20,000 or more?

A I honestly don't know.

Q Only twenty approximately were selected for this expanded club; is that correct?

MR. NAFTALIS: I object. He testified already

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he does not know how many were selected.

THE COURT: That is what he said.

A I don't really know.

Q You have no idea?

A No.

I don't recall. Maybe somebody told me, but I have no re ollection of it.

Q So Mr. Dowd did the selecting of who would be included in this expanded club?

MR. NAFTALIS: That is not his testimony. That is a misstatement.

THE COURT: He may ask the question.

A I would assume that Mr. Dowd was as busy as I was. This was not one of the only things that the man did. This was one of many things. Mr. Dowd could not have gotten down to 90 some-odd branches and do a day's work. He enlisted the aid of his associates.

Q Who other than Mr. Dowd to your knowledge --

A I heard testimony here about Mr. Powell, Mr. McCabe and other people like that who talked to people.

Q So Mr. Dowd, Mr. Powell and Mr. McCabe. Anyone else?

A I don't recall, but I don't limit it to that. There may have been some testimony here about somebody else.

Q At any time did Mr. Dowd or anybody else ask you to approve any of the potentials members of the expanded club?

A No, he didn't have to.

Q The answer is "no"?

A The answer is "no" because he didn't have to, because we had a rule. You ask everybody above a certain salary.

Q The answer is that he didn't consult you?

A He might have. He might have said, "I asked Joe Smith to come into the club."

I don't recall it.

Q If he asked you whether or not he could ask Joe Smith, you would say whether or not he could?

A It wasn't left on that basis. Mr. Dowd was my second man. He was my assistant and Mr. Dowd was given a job and I didn't ride herd on him. He was a competent man, a trustworthy man. I let him do it.

Q Mr. Dowd was the one and not you?

A Not Mr. Dowd alone, not me.

Q But not you certainly?

A Not that I tried to avoid it. I too had things to do.

Q For whatever reason, it was not you?

A Not me.

Q You were not consulted as to who would be the new members?

A I assumed everybody making a certain salary would be asked.

Q Did there come a time when Mr. Dowd told you who in fact had been selected?

A No, I don't recall.

Q Never told you the names of the people to be brought in?

A I don't recall it.

Q You don't recall Mr. Dowd ever telling you that?

A No, I don't.

Q Never discussed with Mr. Dowd why certain officers should be asked and others not?

A Well back in 1967 when we started the club, I said I would like to get people who would go to the dinners and not gulp down the food and run home as some special thing they are getting. I wanted people to get around and do business. I said, "Let's get some of the more personable people to make the dinners."

Q You left that in Mr. Dowd's hands?

A He felt the same way.

Q Isn't it a fact when you spoke to Mr. Corriss, Mr. Lowe and Mr. Wulffleff, those three men were part of the expanded club in 1970?

A You mentioned an expansion in the middle of 1967. I spoke to them in the summer or January of 1971. I understood you to say "mid '70"?

Q Isn't it a fact Mr. Corriss, Mr. Wulffleff and Mr. Lowe were involved in this expanded club?

A Yes.

Q And in December of 1970 you spoke to them to recruit them into this expanded club; is that correct?

A I remember I spoke to Mr. Lowe and Mr. Corriss and I must have spoken to Mr. Wulffleff, but it is not clear in my mind.

Q So that they were brought into the club; is that right?

A Two of them volunteered. They had been doing the same at previous banks, City, Chemical, and they knew about it, and they said "fine."

Q You brought them in at that time?

A Yes.

Q Now, do you recall in 1974 there came a time when Mr. Corriss called you up and told you that he had spoken to the FBI?

A Yes.

Q And do you recall that Mr. Corriss told you at that time that he told the FBI that you were the one who introduced him into the club? Do you recall that?

A I don't know whether he told me that he told the FBI. When he said I was the one that spoke to him, I told him I didn't remember it. He told me the circumstances as I testified to here on direct and refreshed my memory.

Q Isn't it a fact in that telephone conversationwith Mr. Corriss you told him:

"I don't remember introducing you into the club at all. You are wrong, it couldn't have been me"?

A I didn't say it that way. I think I said, "Steve, are you sure I spoke to you? I don't recall," and he described where it was.

Q Is it your testimony when you spoke to Mr. Corriss on the telephone in 1974 you remembered, after having your recollection refreshed, that you indeed introduced him into the club?

A That is what my testimony was and that is what I state here now -- refreshed my memory.

(Continued next page.)

Q Did you hear Mr. Corey's testimony?

A 1830 MR. NAFTALIS: I object.

THE COURT: Sustained.

Q Isn't it a fact that Mr. Casey was brought into this expanded club in December of 1970?

A I don't --

THE COURT: We will recess now for lunch. Please do not discuss the case with each other nor with anyone not on the jury.

Enjoy your lunch.

(Whereupon a luncheon recess was taken.)

(Continued on the next page.)

IM:CR
PM-all

MR. COHN: I have a short witness on behalf OF David Dowd and I respectfully ask permission to interrupt the witness and put him on.

There is no objection?

MR. PATTISON: No objection.

MR. NAFTALIS: I have one short character witness for Mr. Clifford.

THE COURT: All right.

MR. KATZBERG: I have no objection. I make one request: If there are any witnesses, substantive witnesses, who are going to be called this afternoon or tomorrow, I ask they be excluded from the Courtroom.

MR. COHN: They are not in the Courtroom.

MR. PATTISON: Also if they have been in the Courtroom.

THE COURT: I don't believe so.

I didn't see any.

MR. NAFTALIS: There are none.

R.PATTISON: Mr. --

MR. NAFTALIS: At the close of the morning two substantive witnesses may have come in and sat in the back for a minute or two.

THE COURT: All right.

(The Jury entered the courtroom at 3:00 P.M.)

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(The following occurred within the hearing of the Jury.)

THE COURT: We're going to interrupt the cross-examination.

We have two character witnesses, one for Mr. Dowd and one by Mr. Naftalis.

MR. COHN: I call on behalf of Mr. Dowd Mr. Lionel Goldberg.

XXX L I O N E L G O L D B E R G , having been called as a witness, was duly sworn the Clerk of the Court, took the stand and testified as follows:

DIRECT EXAMINATION

BY MR. COHN:

Q Mr. Goldberg, will you please state your present occupation?

A I'm vice-president of Alexander & Alexander International Insurance Brokers.

I'm director of Nassau Trust Company and director of Long Island Lighting Company, and director of Slater Incorporated.

Q Do you know the defendant David Dowd?

A I do.

Q For how long a period of time have you known him?

A Upward of ten years.

Q In what connection do you know him, sir?

A I have known him by virtue of his and my activities in community affairs, various fund raising functions throughout the Nassau and Suffolk, as well as his association with Nassau Trust Company in the last few years.

Q He was present of the Nassau Trust?

A Yes.

Q During the course of your association with this defendant have you had an opportunity to meet other people who have also known Mr. Dowd?

A Oh, yes.

Q Have you heard him discussed with such other persons?

A Yes.

Q And based on these discussions that you have had with such other persons, do you know David Dowd's reputation for integrity, veracity and law-abidingness?

A Yes.

Q Tell us what that reputation is?

A Excellent. Only in the highest terms.

Q Based upon that reputation would you believe Mr. Dowd if he spoke on a matter of importance?

A I absolutely would.

Q Did there come a time that David Dowd resigned

from the Nassau Trust Company?

A Yes.

Q Was that in September of 1975?

A Yes.

Q Was that at the time he was indicted --

MR PATTISON: Objection.

THE COURT: Sustained.

MR. COHN: I have no other questions, your Honor.

MR. PATTISON: Your Honor, we have no questions of the witness.

THE COURT: All right, step down. Thank you.

MR. NAFTALIS: Mr. Clifford will call Harold Trent, your Honor.

XXXXX H A R O L D T R E N T, having been called as a witness, was duly sworn by the Clerk of the Court, took the stand and testified as follows:

DIRECT EXAMINATION

BY MR. NAFTALIS:

Q What do you do for a living, sir?

A I am a minority bank organizer.

Q How old are you, sir?

A Forty-nine.

Q And do you know a man named Patrick Clifford?

A Yes.

Q How long have you known Patrick Clifford?

A About eight to ten years, really eight or nine years now.

Q How did you come to know Patrick Clifford?

A Well, I live in Nassau County and there is a discussion on the minority side of our community and it was decided that the other banks or the other larger banks were not zeroing in for the needs of our community and about twenty-two of us got together and decided to build a bank in the Village of Hempstead and in doing this, from where we wanted our branch directly across or within sight, I'd say within half a block stood a branch of Security National Bank, so I had to call Mr. Clifford and talk to him about this bank, because being so close to his bank, first I would take away his customers, draw down some of his deposits and probably create a problem within that village, since there were a great many minority deposits within his bank.

I wanted to speak to him on this. Our attorney, Mr. Wachtel, sat on the board of Rapid America with Mr. Clifford and a meeting was arranged at Hofstra University for he and I to discuss his not being in opposition to

Vanguard National Bank.

At lunch, after an hour or two of discussion, he decided to support that bank. He called me up to Security and he had almost all his top senior officers there and told them we're going to support this bank and told them in front of me that anything I needed to get when the bank organized or opened, whatever the needs were, they were to be served and all I had to do is call any particular officer who specialized in a given area where we needed experience, and that was my first meeting with Mr. Clifford.

Q Did Mr. Clifford continue to render assistance to you at that bank?

A Not only with that bank. I then went over to Newark, [illegible], New Jersey, and called on him to help us there.

Because of the state law we couldn't do too much together, but in the area of Corona, Queens I called on him to help there and he supported me there.

He sent me two of his men from his branch on Jackson Avenue in Queens. We worked together there and that bank now is in the process of selling its stock.

Q During the years you have known Pat Clifford have you formed an opinion as to his reputation as to integrity, truthfulness and obeyind the law?

A To me he has an impeccable reputation, you know, whatever he says he was going to do, he done. I only know him from that source.

I think he's a wonderful man.

MR. NAFTALIS: NO further questions.

MR. PATTISON: No questions.

THE COURT: All right. Step down. Thank you.

(Witness excused.)

THE COURT: All right, you may resume the stand, Mr. Clifford.

(Continued on the next page.)

M:CR
PM-2

P A T R I C K C L I F F O R D, having been duly called as a witness and being previously duly sworn by the Clerk of the Court, resumed the stand and testified further as follows:

CROSS EXAMINATION

BY MR. KATZBERG (Continued):

Q You told us the only three persons you introduced into the club to your recollection were Mr. Lowe, Mr. Wulffleff, Mr. Corriss in December of 1970; is that right?

A Yes.

Q Didn't you have Mr. Brogan introduce other people into the club and over them raises?

A No, sir.

Q Isn't it a fact in December of 1970 you had Mr. Brogan call William Primsoch and have Primsoch brought into the club with a salary increase?

A No.

Q You deny you did that?

A I deny that.

Q Mr. Brogan's testimony to that effect, does that refresh your recollection?

MR. NAFTALIS: Objection.

THE COURT: You need not answer that.

Q Is it not a fact in January and February of

1971, you played a role with the hiring of Albert Fach?

A Yes.

Q Isn't it a fact Mr. Fach had some salary negotiations between himself and Mr. Brogan before he came aboard?

A I think he had with Brogan and possibly others.

Q You wanted to hire Mr. Fach at $30,000 and he wanted $35,000?

A I don't remember the figures. We made him an offer and he held out for a higher figure.

Q Isn't it further a fact, based on your conversation with Brogan you had Brogan offer him the $35,000, $2,000 of which was to be for the contributions?

A No.

Q Do you now deny that?

A Yes.

MR. NAFTALIS: Objection. He said he didn't do it.

Q You testified earlier this morning that to your recollection in late 1970, early '71 when the club was expanded, that a number of the raises given to the officers were combination increases?

A Yes.

Q Part for the club and part merit?

A Yes.

Q And it was received in one lump sum?

A Yes.

Q Do you recall in February '71 you spoke to Brogan and indicated there was confusion on the part of some of the officers of the bank who received these combination increases, they weren't sure which was for merit and which was for the club, and you asked him to call officers to straighten it out?

A I don't recall any such conversation.

Q You deny you asked Mr. Brogan to do that?

A Yes.

Q Do you deny that he reported that he had asked you and you had done that? Do you deny you ever spoke to Mr. Brogan?

A I --

THE COURT: Rephrase your question.

Q Do you deny you ever had a conversation with Brogan where he told you there was no confusion among the officers as to the salary increases?

MR. NAFTALIS: Same objection.

THE COURT: Overruled.

THE WITNESS: I deny it.

Q You know Mr. Dutra?

A Yes.

C He worked for the bank.

A Yes.

Q He worked until February of '71; is that right?

A He started sometime in '66 or '67.

Q Would it refresh your recollection if I told you he came aboard in '68?

A I'm not sure.

Q And he left February of '71?

A Several years it would sound right.

Q Dutra played a role in the club?

A Yes, he reported to Mr. Dowd.

Q Isn't it correct he was hired because of his association with the Long Island Association?

A That's where I met him.

Q That's a group of businessmen active on Long Island?

A Yes. I believe he was executive secretary and it was a job non-salaried for the chairman, and he had the salary for the situation.

Q When he was hired he had no banking experience?

A Yes.

Q He was hired primarily because of his contacts?

A That's the purpose I had before me.

Q Isn't it a fact when he came aboard he was working for Mr. Dowd?

A He --

Q With regard to those responsibilities he would supervise Mr. Chadwick?

A I'm not certain. It could be.

Q Did you come to learn Mr. Dutra would refer requests for contributions to yourself, Mr. Powell or Mr. Dowd?

A Could have. I'm not certain. I'm sure he worked closely with Mr. Dowd.

Q Did you come to learn that the decisions where the money was going were relayed to Dutra for him to tell Chadwick?

A I didn't know the mechanics.

Q My saying it doesn't refresh your recollection?

A No.

Q There is no question Dutra worked substantially with the contributions and in acquiring business?

A I don't think the contributions was a time consuming thing. His job was to bring in membership customers from the LIA association as customers.

Q He worked closely with Mr. Dowd with respect to the contributions?

A I assume he did.

Q Dutra had no banking responsibilities in terms of day-to-day operations of the bank?

A I gave him an assignment.

Q He didn't work on loans?

A No.

Q He didn't work on the day-to-day operations of the bank?

A Depending on what you mean by operations. He was brought in to perform a function, business development and marketing with jobs that I read he was supposed to do.

Q In that connection he was active in the contribution club?

A Yes.

Q Didn't he have the idea to call the LI Public Affairs Club that name?

A I don't know that. I thought Dowd developed that in '67. I asked Mr. Dowd to do a job for me in '67, and I thought -- I assumed it was an outgrowth of his association. I didn't ask about it.

MR. KATZBERG: I ask a one-page document be marked as Government's Exhibit for identification.

THE CLERK: So marked Government's Exhibit 183 for identification.

(So marked.)

MR. NAFTALIS: May I see it, please?

Q Isn't it a fact the Long Island Public Affairs Club didn't come into existence until 1970?

A I'm not sure of the date. It was considerably after Mr. Dowd's investigation of the other banks.

Q If I told you the Long Island Public Affairs Club came into existence in the spring of 1970 --

A Yes.

Q It only lasted about five months?

A I don't know. It was short. It was closed down.

Q Practice was stopped; isn't that correct?

A Yes.

Q Mr. Dutra left the bank shortly after the end of the Long Island Public Affairs Club, right?

A I don't recall what date he left.

Q Do you remember him tendering a letter of resignation to you?

A He came in to see me to say goodbye.

Q I show you Exhibit 183. Do you recognize that as Mr. Dutra's letter of resignation to you, sir?

A I don't recall the letter, but I recall him telling me what is in the letter.

Q The letter is addressed to you?

A I probably saw it.

Q Is that his signature?

A That's his initials.

MR. KATZBERG: I offer Exhibit 183 into evidence.

MR. BANNIGAN: For what value?

THE COURT: May I see it?

(Continued on the next page.)

MR. KATZBERG: Certainly.

THE COURT: I see no value.

MR. KATZBERG: May I lay a foundation for it?

BY MR. KATZBERG:

Q Do you recall a conversation around the time Mr. Dutra left the bank where you discussed his leaving?

A I recall I had a conversation about him leaving.

Q Do you recall Mr. Dutra assured you in that conversation that his activities with respect to the political contributions that he would keep those activities confidential and secret after he left the bank?

A I recall no such conversation.

MR. KATZBERG: May we approach the bench, your Honor?

(Sidebar discussion out of the hearing of the Jury as follows:

MR. KATZBERG: The approporiate paragraph relevant is "Before I leave the bank and after I'm no longer associated with Security you may be assured of my loyalty and confidence in matters I have been involved which are not of public interest or concern."

That's a specific reference to Mr. Dutra's --

THE COURT: No, you're reading into it.

Sustained. You can't read that into it.

(The following occurred within the hearing of the Jury.)

THE COURT: The objection was sustained.

Q Do you deny you had a discussion with Mr. Dutra at the time he left?

MR. NAFTALIS: Asked and answered.

THE COURT: He can ask it.

Q Do you deny you had a conversation with Mr. Dutra around the time he left the bank's employment hwerein you discussed his keeping confidential his activities concerning the political contributions?

A Do I answer that?

THE COURT: Yes.

THE WITNESS: Yes, I so deny.

Q You might recall, Mr. Clifford, that Mr. Casey testified to the contributions with respect to Bernard Myers. Do you remember that, sir?

A Yes.

Q Did there come a time in 1972, specifically in September of 1972 when you spoke to Mr. Casey with respect to a contribution to the Bernard Myer campaign?

A Yes, sir.

Q Now, would you tell the ladies and gentlemen

of the Jury what you said to Mr. Casey and what he said to you?

A Well, word for word --

Q In substance.

Q In substance Bernard Myer had been a Supreme Court Judge and well known to me for many years, and I -- either him or his campagin manager, Harold Ickes Jr. who is the son of the Secretary of the Interior in the Roosevelt Cabinet, and he asked could I help him.

Q You promised to help the campaign?

A I had personally -- I helped personally and was asked could I do some more and I said I'd see what I could do.

Q Didn't you promise you would make a contribution to the Bernard Myer campaign?

A No, I didn't promise.

Q Thereafter you went to Mr. Casey and you told him you wanted him to get $500 for the Myer campaign; is that correct?

A I don't believe we set the figure. I was travelling with Casey in the city and I told him of my meeting with Judge Myer or his campaign manager, and I told him what I had done. I said if you can do anything more, I gave him Ickes' name.

Q Is it your testimony Casey chose the $500 figure?

A I don't recall. He might have asked me and I might have limited it to that.

Q So Mr. Casey obtained some checks through Chadwick; is that correct?

A I don't know.

Q Did there come a time when you learned that Casey delivered the $500 as per your instructions to Mr. Ickes?

A I don't recall. He said he would do it. I don't know that I talked to him about it again.

Q Now, you had a number of conversations with Mr. Casey concerning the contributions of the club.

A Not a number. I had many conversations with Casey but not necessarily the club.

Q Do you remember in '72 when you and Mr. Casey discussed Mr. Loo?

A No.

Q Doyou recall ever telling Mr. Casey that Mr. Loo had apartment houses and substantial benefits because of that and accordingly the raise he got for the contributions was really putting money in his pocket because he paid no taxes on it?

A I don't recall any conversation like that with Mr. Casey.

(Continued on the next page.)

Q You deny telling Mr. Casey that?

A I don't recall it. It could have happened, but I doubt it.

Q Mr. Loo certainly did have those tax shelters?

A He told me that he did.

Q And given --

A I understood his grandfather did it for him.

Q Given that fact, his tax liability was somewhat less than people that didn't have that situation; isn't that correct?

A Correct.

Q You testified on direct examination, Mr. Clifford, that there came a time when an individual from the Nassau County Republican Committee spoke to you about a contribution which was owing in the past; is that correct?

A Yes.

I don't know whether he was an official or just someone handling the finances of the particular dinner.

Q This was around October of 1972?

A I can't place it, but it would be not too long after the Wachler dinner.

Q If I told you it was September 9, 1972 would that sound about right?

A I would say so.

Q This individual told you that money had been promised from the bank and had not been received?

A He told me that half the money had been received, that the bank attended the dinner and used all the tickets, and if I knew when he might get the balance -- when they might receive the balance.

Q By the way, that man's name was Gerber? Does that refresh your recollection?

A I remember the words "Doctor."

It sounded like he was an M.D. I don't recall what his last name was. Whatever it was, I gave it to Mr. Casey on a card.

Q The name "Gerber" does not refresh your recollection?

A It does not. It could have been Gerber. I just don't remember.

Q So you had Mr. Casey check on this to see whether or not the money had been paid?

A Yes, sir.

Q And Mr. Casey said to you in substance:

"But Pat, I am not involved with the club any more"; is that correct?

A Yes, and I said, "Will you do it anyway?"

Q And he agreed to do it, although he was no longer

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involved?

A Yes.

Q So there came a time when Mr. Casey got back to you and told you that he had checked on it and he wanted to report to you about that; isn't that correct?

A Yes, sir.

Q And he closed the door of your office; is that correct?

A He talked to me first.

Q And then he closed the door of your office?

A He told me that the money was in the mail. Then he said, "May I close the door of the office?"

Q Fine, sir.

Then he told you that in fact the money had been paid and had been paid by a bank check?

A Correct.

Q Would it refresh your recollection if I told you that Mr. Casey told you that there were in fact three bank checks, not one but three?

A That wouldn't refresh my recollection, because he never told me that.

Q No recollection of that at all?

A I am sure of it. It is not a recollection. He told me about the one.

Q Now, I want to show you, Mr. Clifford, Exhibit 115 in evidence. I want you to look at the second page and I want you to look at that page and tell us whether or not that does not refresh your recollection that you were the one who committed the contributions both to the Nassau County Republican Committee for $2,500 and for the campaign of Sol Wachler for $2,500?

A No, I think -- this doesn't refresh my recollection. I have an entirely different recollection of how this all came about.

Q Even though it says "P.J.C."?

A I see it on there.

Q That does not refresh your recollection?

A No, I have a completely different recollection.

Q Even though it says "solicitation by Sam Gerber," that doesn't refresh your recollection?

A I don't know Sam Gerber. I don't think I know him.

Q You told us yesterday on cross-examination that when you were considering whether or not to make political contributions, you determined how much money was controlled by the various committees or the politicians in terms of municipal accounts; is that correct? And you asked for another criteria, who the person asking for the contribution'

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was?

A Yes.

Q Now, in that connection, can you tell us what "28.3M time" means with respect to the Nassau County Committee?

A I don't know what it means.

Q Doesn't that mean "time deposits"?

A Yes, it means "time."

Q It says "time"?

A We also have time investments. We have notes from political organizations, County of Nassau, County of Suffolk. I think it is time. I can't be sure. It is not detailed enough to identify it.

Q And 28.3MM means what, sir?

MR. NAFTALIS: I would object unless it is in his handwriting.

THE COURT: If he knows.

Q Do you know?

A Could be 28 million point 300 thousand. It is not the way I would write it.

Q The next is "2.7MM demand." Is that correct, sir?

A Looks like it.

Q Does that mean "demand deposits" to your knowledge?

A I don't know. Could be.

Q that is under the "Nassau Republican Committee 2,500 contribution" and says "campaign contribution" does it not, sir?

A Yes, that is what it says.

Q With respect to the Wachler contribution listed on there, it also says that it was submitted by you, P.J.C., isn't that correct?

A I think it is wrong.

Q It also says "for campaign of Sol Wachler who was being groomed for the next state Attorney General, past participation 1970, 1971 and 1972" and it has certain amounts; is that correct?

A That is what it says.

Q Amounts of money paid to him in the past?

A Past participation. I do not know whether it is correct or not. It is not in my handwriting. I never saw it before. I do not agree that I ever heard that Mr. Wachler was ever being groomed for the State Attorney General.

Q This doesn't refresh your recollection that you approved the $2,500 for the Nassau Republican Committee and the $2,500 for Sol Wachler?

A No, I have no recollection.

Q Let me keep trying to refresh your recollection,

sir.

MR. NAFTALIS: I object to the remark of Mr. Katzberg, "Let me keep trying to refresh your recollection." If he doesn't recollect, he doesn't.

THE COURT: That is what he is doing.

Q I want you to look at the yellow page here that is attached to the exhibit.

It says, "Nassau Republican Committee"; is that correct?

A That is what it says.

Q "$2,500"?

A Yes.

Q "Per A. Page."

That is Angela Page?

A I don't remember her.

Q "P.J.C."; that is you?

A That's me.

Q And it says --

A I assume it is me. I am P.J.C.

Q It says: "Attention Sam Gerber, Nassau County Republican Headquarters."

A That is what it says.

Q Did that refresh your recollection, sir, that you approved the $2,500 contribution to the Nassau Republic

Committee?

A No, sir.

Q On the same page it also says, "For S. Wachler cam paign"?

A Yes, sir.

Q Does that refresh your recollection, sir?

A No, it does not. I have a completely different recollection on the Wachler end of it.

Q I also want you to look at the further attachments.

It says on the top: "Attention Sam Gerber. While you were out, Sam Gerber of the Nassau Republican Committee called" and there is a phone number; is that correct?

A That's right.

Q "2:40 p.m." he called; is that correct?

A That's right.

Q It says, "Message 2500;" is that correct?

A That's what it says.

Q Does that refresh your recollection?

A It doesn't say dollars or anything. It could be dollars.

Q Does that refresh your recollection, sir?

A No, it is not my recollection.

Q Let me look at the final page of this exhibit:

"P.J.C. 2500 Wachler" is that correct, sir?

A That is what it says.

Q "Nassau Republican"?

A That's right.

Q It says "OK, PJC"; is that correct?

A It is not my writing.

Q It says that?

A Yes.

Q And those documents do not refresh your recollection --

A No, sir.

Q -- that you approved $2,500 for Wachler and $2,500 for the Nassau Republicans?

A No, sir.

I have a completely different recollection.

THE COURT: You have answered the question.

Q Mr. Clifford, when you found out that the bank had issued bank checks or a bank check, you wanted it undone; is that correct?

A Mr. Casey said it was wrong and I said it was wrong.

Q It was illegal?

A The word "wrong" was used.

Q In what respect was it wrong?

A Pardon?

Q In what respect was it wrong?

A I asked him and he said it was a bank check. I asked didn't they collect club checks in the amount of 2,500 and he said "No," that it was the bank's money.

Q What was wrong with it was that it was obviously a bank contribution?

A Yes, it was wrong for that reason.

Q So it had to be undone and isn't it a fact that based upon your knowledge that the bank check was utilized for this contribution, you caused the contributions club to pay back the money to the bank; isn't that correct?

A It didn't work in that order. I said, "If the contributions people don't have the money, I will lay it out and I want it paid back at six per cent interest for all the time the bank is out of pocket."

I expected that the contributions club wouldn't have the money and I would have to do it out of my pocket.

Q But as it turned out, the contributions club reimbursed the bank?

A I guess so. I was told that. I didn't physically check it. I was told that the contributions club had reimbursed the bank with interest.

Q Isn't it a fact when you told Mr. Casey of the

plan to have the contributions club pay back the bank, Mr. Casey said to you in substance: "What sense does that make? You are giving the contributors money from the bank to make the contribution and now the people who are getting the money from the bank to make the contributions are giving the money back to the bank?"

Do you recall Mr. Casey saying that to you?

A He could have, but I don't recall. It wouldn't have changed my thinking. It was supposedly done under those circumstances and I wanted the bank repaid.

(continued next page)

Q Do you recall saying to Mr. Casey in response: "I don't care about that"?

A Could have said that. I wanted the bank repaid. That I know I wanted that.

Q Is it a fact that the records of the bank were changed to reflect a loan transaction, sir?

A I don't know anything about the records of the bank. I didn't look at it. I asked him to have Mr. Stefan report back to me after just what happened and that if anybody did that deliberately, I would fire them.

Q Isn't it a fact, sir, that the records of the bank were altered, were changed? ---

MR. NAFTALIS: Objection.

Q -- to make this transaction look like a loan?

THE COURT: You may answer.

MR. NAFTALIS: There is no evidence of that.

THE COURT: You may answer the question.

A I don't know that they were ever changed. I do not know it now.

Q Do you remember the testimony of Robert Doud--

MR. NAFTALIS: Objection.

THE COURT: What is that?

MR. KATZBERG: I am asking him if he remembers the testimony of Robert Doud.

THE COURT: He need not adapt the testimony of any other witness. He need not recall their testimony. It is not a question of whether he recalls it, but whether the jury recalls it and he need not accept or deny it.

MR. KATZBERG: May I ask if he remembers the testimony.

THE COURT: It does not make any difference.

MR. KATZBERG: I withdraw it.

THE COURT: You may withdraw it. Do you deny, sir, that one of the bank checks involved in this was a thousand dollar check to the Nixon Rally?

A Do I deny it?

Q Yes.

A I deny knowing about it at the time Mr. Casey told me about the $2500.

Q Mr. Casey never mentioned that to you?

A Never.

Q Never heard of that?

A At that time I did not hear about it.

Q When for the first time did you learn that a $1000 bank check, payable to a subdivision of the Nassau County applicants, was used as a contribution to the Nixon Rally?

A I believe my first time was in connection with

Newsday.

Q That's the first time you learned about that; is that correct?

A In connection with Newsday.

Q Now, I want to show you some documents Mr. Clifford, and the first one that I want you to look at is Exhibit 121 in evidence.

In connection with that exhibit, I also want you to look at Exhibit 110 in evidence.

(document shown to the witness.)

A Yes.

Q Have you had an opportunity to read those documents?

A Yes.

Q Now, exhibit 110 in evidence is a letter to you, is it not from Arlene Wolf, for Irving Goldman, of the Beame Birthday Committee; is that correct?

A Yes, sir.

Q February 1, 1974; is that correct?

A Yes.

Q Isn't it a fact that you were at a party at Mr. Fineberg's home and at that time you pledged $5,000.00 as a contribution to the Beame Birthday Committee; isn't that correct, sir?

A This is what the letter says. My recollection is that I contributed and it could have been for another Beame Affair. I contributed $2500 and indicated that I would try to raise another $2500 which they wanted. A firm commitment if I am right. I gave $2500 of my own money to the Beame Campaign and said that the other $2500 I would try to raise.

Q Isn't it a fact --

A Talking about the same time.

Q Isn't it a fact that you caused the contributions club to generate money for contributions in connection with the Beame Birthday Committee?

A I think they kept after me and the man working with me, Roger Loo, because I remember him Stefan telling me that he had gotten in $2500 to Mr. Loo for the Beame Campaign. I think it had to do with the birthday, but there were other affairs. It could be a little confusing.

Q Isn't it a fact that based upon your instructions money was contributed -- $2500 was contributed, made up of the checks of the officers of the Contributions Club to the Beame Birthday Committee; is n't that correct?

A I thought it was Mr. Loo's request to Mr. Stefan. I knew they wanted the money and tried to get me committed. I think they asked for $25,000 and I told them "it's nice smoking with you."

They had a card calling list and I said "all I will commit myself for is $2500.00." which I did.

Q This doesn't refresh your recollection that you pledged $5,000 at that party?

A They came down to $5,000. I pledged $2500 and sent them a check and I think I told them that I would try to do something about another $2500.00.

Q Isn't it a fact that you told them that all $5,000 was coming from you?

A No.

Q The last paragraph, does that refresh your recollection, where it says, "Please make your $5,000.00 personal check payable to the Beame Birthday Committee"?

A It says it there, but this was a typical political fund raising cocktail party and I was asked, I think by whoever was pulling out the names, for $25,000. I laughed at them and said I would make a firm commitment of $2500 and try to do something about getting another $2500.

Q This document does not refresh your recollection that you mentioned $5,000 of your own money and told them that it was your own money?

A I know that I didn't pledge $5,000 of my own money.

Q There was an affair held for this Beame Birthday

Committee, isn't that correct?

A Correct.

Q It was an affair on the QE2, the Queen Elizabeth 2 at Pier 84 on 48th Street in New York, and you received an invitation, Exhibit 121, and on the inside of the invitation it says:

"The proceeds will be used to dispose of recent campaign debts"; is that correct?

A That is what it says.

Q You knew the money that was going to the Beame Birthday party was money being given to that campaign to dispose of campaign debts; isn't that correct?

A I guess. I don't know if I read the program. If that is what it says, that is what it says.

Q The guests who were attending were Mr. McGrath; is that correct?

A If that is what it says.

Q Who is he?

A Christopher McGrath was an associate attorney in Mr. Shea's law firm.

Q Mr. Fugazy?

A He is a gentleman in the travel business, Fugazy Travel.

Q Mr. Ronan?

A Dr. Ronan was a director of the bank at the time -- still is.

Q Mr. and Mrs. Patrick Clifford?

A That's me.

Q Mr. and Mrs. Thomas McMann, Sr.?

A He was vice-chairman of the bank.

Q And Mr. and Mrs. Stefan?

A He was executive vice-president.

Q Did any of them write checks to the Beame Birthday Committee?

A I don't know.

Q Isn't it a fact that none of them did?

MR. NAFTALIS: Objection, asked and answered. He said that he does not know.

Q That affair required positive means of identification before one would be allowed on the QE2?

A It was the first time I was frisked and my wife was frisked in evening clothes.

Q There is a notation on the invitation that one would need a passport, driver's license, some legal means of identification?

A I didn't recall that, but this was an English ship and Mr. Beame was born in London, I think, and there was an Irish group parading outside on the pier and everybody got

frisked, including the ladies -- even in evening clothes.

Q And these documents, exhibit 110, and 121, they don't refresh your recollection that you were the one that proposed the $5,000.

MR. NAFTALIS: I object. Hehas been through this five times.

THE COURT: Yes, he has answered.

Q Mr. Clifford, you indicated earlier on direct examination and on cross-examination as well, that quite often the request would come directly to you because you were the president?

A Yes, sir.

Q The request for contributions; isn't that correct?

A Yes.

Q And you would send them to Mr. Doud; is that correct?

A I guess most of the time I would.

Q After Mr. Doud left, who would you send them to?

A Mr. Stefan, I suppose.

Q And sometimes you would put notations on them yourself, were enough to contribute; is that correct?

A If it was something that I had an interest in or knew something about.

Q You would say either yes or not?

A I don't know what I would say. I would have to see the notation.

Q I want to show you exhibit 113, are those your initials, sir?

A Yes.

Q It says --

A "PJC."

Q That is your handwriting?

A That's right.

MR. KATZBERG: At this time I offer Exhibit 113 into evidence.

(Shown to counsel.)

MR. NAFTALIS: Just the top?

MR. KATZBERG: Yes, and anything that goes along.

MR. NAFTALIS: I object to anything but the top.

MR. KATZBERG: I will just offer the very top one.

THE CLERK: Government's Exhibit 113, previously marked for identification, received in evidence.

Q Now, it says on the bottom of exhibit 113, "Mr. C, we are tentatively holding this day for the officers--

A -- dinner meeting.

Q Do you know whose handwriting that is, sir?

A Looks like my secretary's.

Q Once you put down "no" that you were not going to

contribute to the annual dinner of the New York State Republican Committee, what would happen to this? Who would it be sent to?

A I think it was sent to me by my secretary to see if I were going to it. I was going to the officers dinner which was more important.

Q The "no" meant --

A That I would not go to it, therefore, I am free to go to the officers dinner.

Q Again with respect to the request, the invitation went directly to you as president?

I want to show you exhibit 119, it is a post-card addressed to you, is it not?

A Yes.

Q And this is your handwriting over here; is that correct?

A Yes.

MR. KATZBERG: At this time the Government would offer Exhibit 119, previously marked for identification, into evidence.

(Document shown to counsel.)

MR. NAFTALIS: No objection.

THE CLERK: Government's Exhibit 119, previously marked for identification, received in evidence.

Q Exhibit 119 now in evidence is a reminder as to

A Yes.

Q That is your writing?

A Yes.

Q That is a letter addressed to you from Frank J. Brasco?

A Correct.

Q You received that letter from him?

A Yes.

MR. KATZBERG: At this time the Government would offer Exhibit 112 into evidence.

(Shown to counsel.)

MR. COHN: May we see you on this, please?

THE COURT: Let me see it.

(Document shown to court.)

THE COURT: You have an objection?

MR. BANNIGAN: I have not.

MR. COHN: May I just --

(The following transpired at the side bar.)

MR. COHN: Judge, I have no objectin if they tie it up to a contribution from the bank.

THE COURT: Yes, it is a privileged letter. I thought of the same thing.

MR. KATZBERG: This letter was sent by Mr. Clifford to Mr. Stefan and he recognized this as his

handwriting. If you look at the notation in the upper right hand corner, it says "received by Mr. Stefan" who was in charge of the club. He circled the "banking and currency committee" of which Mr. Brasco was a member.

THE COURT: You have to lay a foundation.

MR. KATZBERG: He already indicated that it is his handwriting.

THE COURT: That is not sufficient. It might be his own contribution.

MR. COHN: What does it have to do with us?

MR. KATZBERG: Let us find out.

THE COURT: Then ask him.

(The following transpired in open court.)

EXAMINATION BY MR. KATZBERG CONTINUED.

Q Do you recall the contribution to Mr. Brasco that this letter refers to and for which he is thanking you?

A Yes.

Q How much was that for?

A My personal check for $200.00.

MR.NAFTALIS: That is it.

MR. COHN: I continue my objection, Your Honor.

THE COURT: Ask him the next question.

Q What was the full amount of the contribution

that you know of, sir?

A That I made?

Q Well, the full amount of money that went to Mr. Brasco?

A From me?

Q Totally?

A You mean --

MR. NAFTALIS: I object. It is a letter to him on his own personal contribution.

MR. PATTISON: I object to that.

THE COURT: The question is not really a fair question.

Did that letter represent a contribution or did it represent a total contribution?

THE WITNESS: That letter represented my contribution.

Q And the club played no role with respect to that contribution?

A Not as to my contribution. I sent him a check for $200.00.

Q You don't know whether or not the club sent him additional money?

A I am not sure whether they did or not. Not through me.

MR. KATZBERG: I think we had better discuss it at the side bar.

THE COURT: We will take a short recess.

(Jury leaves court room.)

MR. KATZBERG: I will withdraw the exhibit.

(Recess taken.)

(continued next page.)

THE COURT: All right.

(The following occurred out of the hearing of the Jury.)

THE COURT: We'll have to adjourn. I have a pre-trial matter that I did not realize would last so long.

We'll put this on for ten o'clock tomorrow morning, gentlemen.

(The Jury entered the Courtroom at five o'clock.)

MR. NAFTALIS: I have a problem. Two witnesses couldn't come back after today.

THE COURT: I have a hearing and a remand from the Supreme Court.

I have an anti-trust case inside that's set down for a pre-trial conference.

MR. NAFTALIS: I have one character witness and one previous substantive witness.

THE COURT: I will take your character witness.

Do you have any objection taking the character witness?

MR. KATZBERG: No objection.

MR. NAFTALIS: Mr. Clifford calls Sister Irene Fugazy.

THE WITNESS: Thank you.

MR. NAFTALIS: Thank you, your Honor.

Thank you, Mr. Katzberg.

THE COURT: Mr. Clifford, would you resume the stand please?

P A T R I C K C L I F F O R D , having been previously duly sworn by the Clerk of the Court, resumes the stand and testifies further as follows:

CROSS-EXAMINATION

BY MR. KATZBERG: (Continued.)

Q Do you know an individual by the name of Robert Burke?

A Yes.

Q Is it a fact that from 1973 to 1974, Mr. Burke was a contributor to the contributions club?

A I believe he was.

Q Isn't it further a fact that Mr. Burke played an additional role in contributions club beyond making contributions?

A Additional role?

Q Yes.

A Could have. I can't think at the moment.

Q Would it refresh your recollection if I would say that Mr. Burke -- that you consulted Mr. Burke on certain

political contributions to be made by the club?

A Yes, I spent most of the time in New York in those years and I told him to be sure that we attended the functions where we had depositors or would get good deposits and not waste our money in wrong areas.

Q And so you would consult with Mr. Burke as to what contributions would be made and to what political committees during 1973 and into early 1974; is that correct?

A Not all the time. I think in the beginning I consulted him and I realized that he knew what he was doing and I left it to him.

Q To an extent Mr. Burke took over that responsibility from Mr. Stefan, isn't that correct, sir?

A I wouldn't say that he took it over. I think Mr. Stefan kept his hands in it -- tried to.

Q Mr. Burke certainly took part of Mr. Stefan's responsibility; is that fair to say?

A I don't know. I spent nearly every day in the city and I had him going to dinners where I stopped, because of the work I had to do in the city.

Q Isn't it a fact that you, Mr. Burke and Mr. Stefan, would work on these matters where the money would be going and arranging for tickets?

A That's not correct.

Q In the beginning?

A It was done on the telephone. He would tell me there was going to be a dinner and I would take his judgment on it. He knew where the deposits were and he knew the important dinners.

Q You are saying that the only situation where Mr. Burke and Mr. Stefan and yourself would be involved in this would be over the telephone?

A Not only the telephone. Mostly on the telephone, because I would be in the city and Mr. Burke and Mr. Stefan were in Melville.

Q Let me show you something if I could refresh your re- llection --

MR. COHN: May we have a time frame?

MR. KATZBERG: I am talking about 1973, the spring of 1973 more specifically.

Q I want to show you Exhibit 103 for identification and ask you:

Isn't this an inter-office memorandum written by you to Mr. Burke?

(Document shown to witness.)

A Correct.

Q Isn't that your signature on the bottom?

A Yes, sir.

Q Doesn't that relate to a political contribution to the Democratic Party of Bronx County?

A Yes, New York City.

Q This reflects a situation where you, Mr. Burke and Mr. Stefan had communication -- in this case written communication -- about buying tickets to this dinner and representing the bank at the dinner?

A I had written communication with Mr. Burke and I suggested that he work out the details with Mr. Stefan.

Q Because you made the commitment to the Bronx Democratic Committee that the bank would attend the dinner?

A I suppose I did.

Q Isn't that correct?

A I suppose I must have.

MR. KATZBERG: At this time the Government would offer Exhibit 103 into evidence.

THE COURT: Show it to counsel.

(Document shown to counsel.)

MR. BANNIGAN: No objection.

MR. NAFTALIS: No objection.

MR. COHN: May I see it?

MR. KATZBERG: May it be so marked, your Honor?

THE COURT: It may be.

THE CLERK: Government's Exhibit 103,

previously marked for identification, marked in evidence.

A 1881

(So marked.)

Q This document, Exhibit 103, reflects a decision by you to make a contribution to the Bronx Democratic Committee; isn't that correct?

MR. NAFTALIS: Objection, your Honor. That is a misstatement. It reflects a decision to attend the Bronx County Democratic Dinner. I do not think he should put a characterization on it.

THE COURT: Let him answer.

A Do you mind repeating the question?

Q Exhibit 103 represents, does it not, a communication by you to Mr. Burke of your decision to have the bank make a contribution to the Bronx Democratic Committee?

A It says "We'll be represented at the dinner." That was my commitment. We had to buy tickets, the same thing.

MR. KATZBERG: MayI read the exhibit to the jury at this time?

THE COURT: You may.

MR. KATZBERG: It is an inter-office memorandum, dated 4/19/73 from P. J. Clifford to R. M. Burke,

subject Democratic County Committee of Bronx County:

"I told Pat Cunningham, chairman of the Bronx Democratic Committee, we would be represented at the dinner on May 3rd, 1973. Will you please work it out with Joseph Stefan."

Mr. Clifford indicated before that it is signed by him.

BY MR. KATZBERG:

Q Now, you know an individual by the name of William Lowe, don't you, sir?

A Yes.

Q He worked at the bank, didn't he?

A Yes.

Q You know an individual by the name of Rex Johnson?

A Yes.

Q And he worked at the bank?

A He was president of the bank.

Q And of course you know an individual by the name of Joseph Stefan?

A I do.

Q He also worked at the bank?

A Yes, sir.

Q Did there come a time, sir, when you, Mr. Stefan,

Mr. Johnson and Mr. Lowe were considering what to do about the people in the bank who were not contributing?

A Yes, sir. I don't recall that Mr. Lowe was there. He could have been.

Q Can you tell us approximately when this was?

A In the last three years, I guess.

Q Well --

A 1973, 1974 sometime. I could be off.

Q Would it refresh your recollection if I said sometime in early 1973?

A Could be in that time frame.

Q Do you recall that Mr. Stefan took over the day to day operations of the club after Mr. Dowd left?

A He asked to take it over and I said "okay."

Q Will you tell us about the conversation between yourself, Mr. Stefan, Rex Johnson and you said maybe Mr. Lowe was there, but you were not sure?

A I don't remember whether he was there. He could have been. I will accept it if there is evidence that he was there. I do not recall.

Q Would you tell us about the conversation about the non-contributors?

A We talked about the number of new high-salaried officers that came into the bank. A number of people had

resigned. I think one officer died and the club was -- the amount of moneys coming in were low and I had a concern that I would be asked to fend it if a commitment was made, which I had done once before and hadn't been repaid for. I didn't want to be in that position. I knew there was no handling of the club as it was being handled under Mr. Dowd.

Q Who called this meeting?

A I don't know. It was a meeting where the question came up. Three of us were there. I don't know if they came to me or I came to them.

Q Would it refresh your recollection if you asked them to attend?

A I don't recall, but I will accept it.

Q Isn't it a fact that the concern at that time was to make sure that the club was continuing to generate as much money as possible?

A No, my concern was a lot of people had died, retired or resigned, went to other areas of employment, and that they had not been replaced with a lot of new people in the club and if we got committed somewhere, we wouldn't have the money and I'd be called upon to make it up.

Q How many people were in the club in February of 1973, at the time of this meeting?

A I don't know.

Q You didn't know at that time?

A Somebody might have mentioned a number.

Q How many people dropped out of the club, either by going to another job or for other reasons?

A I knew [illegible] I know some other [illegible]

A I didn't say that. I said the question didn't come up. I didn't raise it and I do not recall anybody else raising it.

Q Was it taken for granted that they would receive the raises?

MR. NAFTALIS: Objection.

THE COURT: Sustained.

(Continued next page.)

Q Now, there came a time, did there not, in February of 1973 when you asked Mr. Lowe, Mr. Stefan and for Mr. Johnson to give you their recommendations as to what should be done about these non-contributors; is that correct?

A Yes.

Q I want to show you Exhibit 118 for identification, that is your handwriting, is it not? (Document shown to witness.

A Yes.

Q It is a handwritten note by you; is that correct?

A Correct.

Q And the stamped date on there is "February 1, 1973"; is that correct ?

A Correct.

Q And the initials on the top are whose?

A "RVJ", Rex Johnson.

Q "WWL" is Lowe, and Mr. Stefan's initials are there, but he didn't initial it?

A Yes.

Q This was written by you; is that correct?

A Correct.

MR. KATZBERG: At this time the Government would offer into evidence Exhibit 118 for identification.

MR. BANNIGAN: Let me see it. (Shown to counsel.)

MR. BANNIGAN: No objection from the bank.

MR. NAFTALIS: May I just ask one or two questions on voir dire?

THE COURT: Yes.

VOIR DIRE EXAMINATION

BY MR. NAFTALIS:

Q Mr. Clifford, showing you what has been marked as Government's Exhibit 118 for identification, I notice that the document is partially written in pen and partially written in pencil; is that correct?

A Yes.

Q And the writing in pen, whose hand is that in?

A In every case it is my hand.

Q Now, the writing in pencil, whose hand is that?

A The initials in pencil look -- the pencil after "WWL" is Mr. Lowe's initials and, I believe, this is Mr. Johnson's writing in pencil (indicating).

I'm not sure that I can read it.

Q The handwriting in pen on here is in your handwriting?

A Yes.

Q The "WWL" initials in pencil are Mr. Lowe's?

A I recognize his initials.

Q And the handwriting next to Mr. Johnson in pencil are his handwriting?

A I believe so, but I am not certain. It looks like his as far as I remember it.

MR. NAFTALIS. I have no objection.

MR. KATZBERG: May it be marked, your Honor?

THE COURT: It may be marked.

THE CLERK: Government's Exhibit 118, previously marked for identification, marked in evidence.

(So marked.)

CROSS-EXAMINATION

BY MR. KATZBERG: (con't.)

Q Now, you recognize the penciled handwriting as that of Mr. Johnson; is that correct?

A I'm only sure of Mr. Lowe's initials. Thatlooks like the way he initialed. I'm not sure of Mr. Johnson's. I think it is. I think it is but I am not certain.

Q Mr. Johnson was the president at that time?

A Yes.

Q And he reported to you?

A Yes.

Q Now, can you tell us what Mr. Johnson said next to his name there with respect to what should be done about

the non-contributors?

A I do not know if I will be able to read it. I think it says "Senior -- I do not know whether it supervisor or --"

Q Correct me if I am wrong:

"Senior supervising officers to talk down through vice presidents" and the next part has a dash and then it says: "Same raise as part, 100 per month"; is that right?

A That is what it said.

Q When did Mr. Johnson come to the bank?

A I don't know, sir. He was with us several years.

Q He succeeded Mr. Travers?

A Not immediately. I think there was a hiatus.

Q Travers left in about when, sir?

Let us see if we can pinpoint it.

A '71, it is a guess.

Q 1971, 1972?

A In that general area.

Q Johnson came in sometime in mid 1972?

A There had to be a hiatus between Mr. Travers leaving and Johnson's coming.

Q Mr. Johnson didn't come on until the club was in

operation approximately five years?

A That's right.

Q How did Mr. Johnson know -- withdrawn.

Did you ever discuss with Mr. Johnson the fact that the people introduced into the club would be introduced by a person senior to them?

A No, I don't recall that I did.

Q Did you ever discuss with Mr. Johnson the fact that the people being brought into the club would be given salary increases?

A I don't recall that I did.

Q Did you ever discuss with Mr. Johnson the fact that out of those salary increases, those people would contribute $100 a month?

A I don't recall that, sir.

Q What was the final decision as to what to do with the non-contributors?

A I don't know. I don't recall that it came back to me. I do believe that the club was expanded.

I have some recollection that people came to dinners that I had not seen before.

Q Isn't it a fact that a good number of new people were brought in?

A I don't know how many. Some were certainly.

Q Isn't it a fact that those people received salary increases?

A I don't know that they did specifically. Those were good years and the bank was doing well and numerous salary increases were paid.

Q Isn't it a fact that those people received $1700 or $2000 salary increases for the club?

A I don't know.

Q Isn't it a fact by the year 1974 there were some 40 odd people in the club?

MR. NAFTALIS: I object, this has been asked and answered. He does not know how many were in there.

THE COURT: He was asked that yesterday and I do not know why we should ask that again today.

Q Let me show you Exhibit No. 84 in evidence. Have you ever seen this before, sir? (Document shown to witness.)

A Is this the bank's?

Q Look through the contents.

A No recollection of ever seeing it.

Q Does the front page show the club members as of 1974, sir?

A I don't know that they were the club members. It's a likely supposition. They were all officers of the bank.

The date up here is 1974. I do not know if they were all members or not.

Q You don't, sir?

A No.

Q Mr. Clifford, do you recall jotting down names on the back of an envelope and keeping the envelope generally with you in your breast pocket?

A No, I do not.

Q You do not recall --

A I don't recall that.

Q -- you would keep the names of people who you felt for some reason or other were not performing their function or doing what they were supposed to do at the bank?

A No, I never kept sucha list.

Q Never had such a list?

A I'm sure of that.

Q In the back of an envelope in your own hand?

A I am sure that I never kept such a list.

Q If you did, you'd recall it; isn't that right?

MR. NAFTALIS: I object.

THE COURT: He says he does not recall it.

THE WITNESS: I don't recall ever doing that. It is not my style.

Q Did you ever have a discussion with Frank Powell

in 1967 wherein you and Mr. Powell discussed his introducing people into the club?

A No, sir.

Q Never?

A Never.

Q There came a time, did there not, in 1974 where you learned that the FBI was interviewing a number of the bank officers with respect to the contributions; isn't that correct?

A Yes.

Q And you spoke to a number of them either before they spoke to the FBI or after; isn't that correct?

A A number of them spoke to me.

Q And one of them was Mr. Corriss; is that correct?

A Yes, sir.

Q And that was the conversation where --

MR. BANNIGAN: I object. We went into this yesterday. It was all covered.

THE COURT: I think it has been covered. THis is not new matter. THere comes a time when cross-examination must be limited.

(Continued on next page

HS R 3 fol

Q And one of the other people you spoke to was Mr. Groskoph; is that correct?

A Yes.

Q Isn't it a fact that Mr. Groskoph just came back from the FBI when you had this conversation?

A Which conversation?

Q About Mr. Groskoph.

A In those days I spoke to Mr. Groskoph eight to nine times a day. He was in Melville and I was in New York.

Q Isn't it a fact that he told you that he had been to speak to the FBI?

A He told me before he went also.

Q Isn't it a fact that Mr. Groskoph told you that he told the FBI about his participation in the club?

A I told him to tell the truth when he went down and he told me he had been down.

Q Isn't it a fact that you told Mr. Groskoph that you were shocked about the whole thing and you knew nothing whatsoever about the contributions of the club?

A That's ridiculous.

Q You deny that, sir?

A Yes, I deny that.

Q Did you ever have a conversation with Mr. David Dowd in 1974 when he was at the Nassau Trust Company, sir?

A I am sure that I had many.

Q You kept in touch with Mr. Dowd?

A He was a friend of mine and still is.

Q Did there come a time in 1974 -- March or April of 1974, when you had a telephone conversation with Mr. Dowd wherein you discussed Mr. Chadwick's records?

MR. BANNIGAN: I object. This was answered yesterday or the day before.

MR. KATZBERG: It was not.

MR. BANNIGAN: It was denied.

MR. KATZBERG: It was not.

THE COURT: I will let him answer, but I think it was.

THE WITNESS: Shall I answer?

THE COURT: Yes.

A The question, did I have a conversation in 1974 with Mr. Dowd --

Q Concerning Mr. Chadwick's records.

A No, sir.

Q Did you ever have a conversation with Mr. Dowd in 1974 wherein you discussed the investigation?

A Yes.

Q Was that in person or over the phone?

A I think I had several with him. Could have been

both in person or over the phone. I used to see him frequently, dinners, bank affairs.

Q Isn't it a fact that you had a phone conversation with Mr. Dowd about the investigation in or about March or April of 1974?

A I am sure it could have been around that time and other times.

Q Could you tell the ladies and gentlemen what you said and what Mr. Dowd said?

A One thing in substance --

MR. COHN: Could we have a time fixed?

THE COURT: Yes.

Q Isn't it approximately March or April of 1974. Does that sound right?

A I am not certain. I talked to him frequently.

MR. COHN: Could we also have the place fixed, please?

THE COURT: He says he does not remember.

Do you know where it was?

THE WITNESS: I don't know whether it was on the telephone or I met him somewhere, because they both occurred, telephone conversations and physical meetings.

Q Isn't it a fact, sir, that you told --

MR. BANNIGAN: I object. There is a question

pending as to what was said.

THE COURT: He has not answered that one yet.

THE WITNESS: The question again?

Q The conversation between yourself --

A Did we discuss the investigation?

Q Yes.

A We did.

Q What did you say to him and what did he say to you?

A I told him that a number of our senior officers had gone over to Babylon and were interviewed by the FBI and that they had made their checks available involving political contributions.

Q What did Mr. Dowd say?

A I think he knew it.

Q He already knew about that?

A He heard it.

Q Was there any discussion about Mr. Chadwick at all?

A I had no discussion with him as to Mr. Chadwick.

Q Any discussion of records of any kind?

A I don't think so.

Q No question in your mind?

A My best recollection is that we did not discuss

Chadwick or records.

Q Didn't there come a time when you saw Mr. Stefan in the hallway outside of his office in approximately April of 1974 and he was carrying a suitcase?

A Could have.

Q Isn't it further a fact that you and Mr. Stefan discussed the contents of his suitcase, which were Mr. Chadwick's records?

A No, sir.

Q You deny that?

A I deny it.

Q Isn't it further a fact that you had a discussion with Mr. Stefan about what was to be done with Mr. Chadwick's records?

A No, it is not true.

Q No discussion whatsoever?

A No discussion about Chadwick's records.

Q You recall seeing Mr. Stefan in the hall around that time?

A I used to see Mr. Stefan frequently.

Q Carrying a briefcase?

A Not carrying a briefcase.

Q You don't recall that?

A I don't recall, no.

Q Did you ever talk to Mr. Stefan about Mr. Chadwick's records?

A No, not about Chadwick's records.

Q Did you ever learn that Mr. Chadwick showed his records to Mr. Stefan?

A No. I thought.Mr. Stefan was supervising Chadwick and his records.

Q So you knew certainly that Stefan had access to Chadwick's records?

A Yes.

Q That Chadwick had records from 1970 through 1974?

A You are asking me?

Q Yes.

A I didn't know what records he had.

Q You knew he had records?

A I assumed he did. I do not know if I ever gave it a thought. I guess he kept records if someone wanted to know where the money went. I assumed that.

Q You remember the exhibit where it said how much money was given to the Republicans in the past years?

MR. NAFTALIS: Objection, your Honor.

You remember an exhibit, you remember the testimony, he is doing the same thing.

THE COURT: Go ahead.

Q In order to decide where the money should go, one of the questions was how much money did we give them in the past; isn't that correct?

A I would guess.

Q And so in order to know how much money was given in the past, you would have to keep records; isn't that correct?

A I wouldn't.

Q Mr. Chadwick would?

A I just assumed so. I never saw his records until they were produced in this courtroom.

Q You certainly knew that he had them?

A I assumed that he had them. Not having seen them, I didn't know for a certainty.

Q Now Mr. Clifford, I believe you told us on direct examination that all of the monies that you paid to the contributions club were monies out of your own pocket; is that correct?

A Correct.

Q And you never received a raise for those contributions; is that correct, sir?

A No, sir.

Q And you never received any benefit whatsoever monetarily from the contributions; is that correct?

A For my contributions?

Q From the contributions club itself, and there may have been one case or two where I laid out money for the club - my own money, and when they got money in they may have returned it to me.

However, you can also say I laid out $2,500 that wasn't repaid. Repayment of a loan or I laid out money, because the club didn't have it. I thought there was one case, but I haven't been able to find it, that I got money back. I would concede if there is such a record that I could have gotten itback.

Q When you got the money back from the officers, they would make their checks payable to you?

A I don't recall that. I would doubt it. I thought this might have been in the Betty Jaeger days, but I am not certain.

Q Isn't it a fact that in 1971 the club made contributions on your behalf, sir?

A On my behalf?

Q Yes, for yourself.

A For me personally?

Q Yes.

A I don't believe so. I don't recall that.

Q Let us see if I can refresh your recollection.

I show you what has already been marked as

Government's Exhibit 88 in evidence and let us see if this does not refresh your recollection that on September 28, 1971 five officers of the Security National Bank each made $100 checks payable to the Governor's Club for your membership in the Governor's Club?

A That's the one that I thought happened. I didn't realize it was five checks. I thought I got one. I think my secretary got the checks and deposited them into my account.

Q Isn't it a fact that that money was expended from the club on your behalf and none of your own money was expended for that; isn't that a fact?

A In this instance, but other years I paid for the Governor's Club and was not reimbursed.

Q Certainly in this year you did not?

A I don't recall that.

Q Does that refresh your recollection?

A I had a recollection in one instance or maybe two instances I laid out money and the club gave it back to me.

Q That certainly isn't that situation?

A This is one of the situations. I thought it was the Governor's Club, too. I wasn't sure. This appears to be the Governor's Club. Is it identified the Governor's Club?

MR. KATZBERG: I ask this be marked as a separate exhibit, as Exhibit 88A.

THE CLERK: Document marked for identification as Government's Exhibit 88A.

(Shown to counsel.)

MR. NAFTALIS: Could we see your Honor at the bench for a moment? I have no objection to the exhibit itself.

(The following transpired at the side bar.)

MR. NAFTALIS: Your Honor, we have had a continuing representation from the Government in writing, by Mr. Katzberg, in his bill of particulars and letters and otherwise that Mr. Clifford was in no way compensated by salary increases or otherwise for any contributions he made.

I do not want the jury to have any false impression of the fact that because the fund paid for his Governor's Club membership that he was getting compensated.

As I say, the Government has so represented in their bill of particulars, as a result of which I have made statements in my opening statement relying upon that, and I have Mr. Katzberg's signed document saying that.

I think we are entitled to a representation in front of the jury now that there is no claim by the Government that Mr. Clifford was compensated in any way by a salary increase or otherwise for any contributions that he made. It is an undisputed fact. I do not think this document -- I do not know what he is trying to accomplish -- should be used to create any false innuendos.

MR. KATZBERG: The document is already in evidence.

MR. NAFTALIS: Not yet.

MR. KATZBERG: It is part of the Chadwick exhibit. It is already in evidence.

This man has testified on direct examination that he never received any benefit from the contributions club.

MR. PATTISON: It is not quite the same thing.

MR. KATZBERG: That is a different matter and I am pointing out that he did receive the benefit that they paid for his Governor's Club membership.

MR. PATTISON: He never received a $1,700 salary raise nor any of the other prior matters.

MR. NAFTALIS: They are going flatly in the face of what they said in their bill of particulars.

MR. KATZBERG: The bill of particulars says that

he was not given a salary increase --

MR. NAFTALIS: Compensated in any way, shape or form.

THE COURT: Let me see it.

MR. KATZBERG: This is a question, your Honor, of the club purchasing something for the defendant, conferring a benefit upon him, and that is all.

THE COURT: He never contributed to the fund?

MR. NAFTALIS: He did. A hundred dollars a month like everybody else. He never got a raise.

MR. PATTISON: Right.

THE COURT: It is his money then. If he gave $100 out of his own pocket and they paid for a ticket for him, what is the big deal? I do not understand the argument. It is his own money.

MR. KATZBERG: The bill of particulars does not say what Mr. Naftalis says.

THE COURT: Are you saying that he gave $100 into this fund and they bought a ticket with his money? How could it be the bank's money?

MR. PATTISON: That is not the case here. The five officers each contributed $100 for Mr. Clifford's membership.

MR. BANNIGAN: If he put $1,200 a year in --

THE COURT: Is there anything to show that the man used bank money? That is what I am speaking about. The issue is, did he use bank money?

MR. KATZBERG: I understand that.

THE COURT: The contribution is not what is improper under the law, what is improper under the law is using improper funds.

MR. KATZBERG: The people who contributed that $100 each were club members reimbursed with bank funds. That is the point.

THE COURT: If he decided to contribute his own money to a fund and they paid for a ticket for him, I see nothing wrong.

MR. KATZBERG: This is bank funds.

THE COURT: What happened to his funds then?

Do you want me to separate it and say they kept his funds aside?

MR. PATTISON: If you subtract five from the twelve, it leaves seven hundred that he put in.

THE COURT: I agree with you on the record that any funds that he used, that were bank funds, would be illegal under the circumstances. That is what we are trying here. But if a man commingles his private funds -- let us assume it is an illegal fund -- there is no

way that you can charge him if he used his private funds.

I cannot bring myself down to that deduction.

MR. BANNIGAN: They have to isolate it and they cannot.

THE COURT: I do not think this will make or break your case. Why don't you rephrase it? You cannot do it that way.

MR. PATTISON: We will move on to another point.

MR. NAFTALIS: They have made the representation in their bill of particulars--

THE COURT: I do not think the bill of particulars has any weight as to the question we are now discussing.

MR. KATZBERG: Here is the exhibit and here are the five members. This was paid out of their checking accounts.

THE COURT: He had his own money --

MR. KATZBERG: In their accounts?

MR. PATTISON: Those were the bank funds.

MR. NAFTALIS: That is a good question of fact.

THE COURT: I am ruling that these were not bank monies.

MR. NAFTALIS: May that be told to the jury?

THE COURT: I will get to it. You will be

surprised as to my charge in this case. I will put on the record now that I will not only use the jury charge, which I am not too enthusiastic about, but I will also use language created by the Court that the jury will understand both favorable to the Government and favorable to the defendants.

MR. NAFTALIS: That is all we can ask for.

MR. KATZBERG: Thank you.

THE COURT: There will be no surprises and I think you will all be happy with it.

(The following transpired in open court.)

(continued next page)

THE COURT: I might as well take a recess now. I have a sentence that I must take now.

So if you want to go down and have coffee, sure, why not. Be back in about 15 minutes or so.

(Whereupon, the jury retired from the courtroom.)

(Recess taken.)

THE COURT: All right, bring in the jury.

(Whereupon, the jury entered the courtroom.)

MR. KATZBERG: I have no further questions at this time, your Honor.

MR. NAFTALIS: I just have a few, your Honor.

REDIRECT EXAMINATION

BY MR. NAFTALIS:

Q Mr. Clifford, you were asked a few questions on cross-examination about a dinner for Mr. Sol Wachtler; is that correct?

A Yes.

Q And I think you indicated at that time that you had a recollection of what happened. Why don't you tell the ladies and gentlemen of the jury how the whole Wachtler dinner thing came about.

A Mr. Johnson, then the President of the bank, went to a cocktail party at the Westbury Manor at the request

of either Mattiargo or somebody in his office. And at that cocktail party, they described a dinner for Judge Wachtler, who was running for a higher court. And then when they wanted support -- and there was going to be this dinner. And they had a number of banks and businessmen, according to Mr. Johnson.

And I said, what happened. And he said that I was able to get away for just one table. They wanted me to take more., I said, that's great. And then he added, it's $500 a plate.

And I sort of whistled. I said that's normally five tables. But I was committed and I didn't say no more. I was asked to go to the dinner. And I believe I had a conflict and didn't go.

Q And the next thing you heard about it is when you got the phone call from the fellow at the organization asking for the money?

A Yes.

Q Now, Mr. Clifford, let me show you what has been marked as 115 in Evidence, a document that Mr.Katzberg was showing you. There is some handwriting on the front page.

Any of that in your handwriting, to your knowledge?

A Nothing is in my handwriting.

A 1912

Q How about the back of the front page? Any of that in your handwriting, to your knowledge?

A No, it is not.

Q Page 2. Is any of that in your handwriting?

A No

Q Page 3, the -- the yellow sheet. There is some more handwriting also referring to the $2500 for Mr. Wachtler. Any of that in your handwriting?

A No, sir.

Q Page 4. Is any of that in your handwriting?

A No, sir.

Q Page 5, a little sheet. Is any of that in your handwriting?

A No, sir.

Q Now, there are some initials on here. It says, per R.D.J.

Who's R.D.J.?

A Rex D. Johnson.

Q He was the President of the bank?

A That's right.

Q Now, Mr. Clifford, it's been established clearly that certain officers who participated in the program that the officers had for buying tickets and the like received salary increases; is that correct?

A Yes, sir.

Q Do you know whether or not every officer who participated received one or not?

A I don't know. I believe some may not have.

Q I take it, you never did?

A No, sir.

Q Now, once the salary increases were given to these people, who did the money belong to?

A It belonged --

MR. KATZBERG: Objection.

MR. PATTISON: I object to that.

THE COURT: Yes. Rephrase the question.

Q Can you tell us, sir, who -- when someone received a salary increase, whose money is it?

MR. KATZBERG: Objection, your Honor. Same objection.

THE COURT: No, that's a bad question also.

MR. NAFTALIS: I don't know how to rephrase it.

THE COURT: Well, all you want to find out is whether or not it's still the bank's money or the employees' money.

MR. NAFTALIS: Absolutely.

THE COURT: All right. Why don't you ask the question.

Q After the salary increase was given to the employees, whose money was it? The bank's or the employees?

A The officer or employee who received it.

Q Were these salary raises permanent?

A Yes, sir.

Q And in those instances where anyone stopped contributing to the voluntary program, were their raises ever taken away from them?

A No, sir.

Q Are you aware of a single instance in which somebody stopped contributing and his raise was taken away from him?

A No, sir.

Q Now, I think it's been brought out about conversations that you and Dave Dowd had in your early stages of the program, prior to the implementation of the program, whose approval did you and Mr. Dowd seek and obtain before the program was implemented?

MR. KATZBERG: Objection.

THE COURT: I don't understand the question, to be honest with you.

Q Was anybody --

THE COURT: I will sustain the objection because I don't think the --

MR. NAFTALIS: All right. I will rephrase it.

Q Was anyone asked to approve the officers' donation program before it was put into effect?

A Yes.

Q Who was that, sir?

A I asked Mr. Shea, counsel, to assign his best lawyer to this program, that I wanted Mr. Dowd not to implement it until he has the blessing of our lawyers.

Q Other than the lawyers' O.K., was there anyone in the bank whose approval you and Mr. Dowd sought?

A Yes. I asked Mr. Dowd to clear it with Mr. Maass, the Chairman of the Board.

Q Could this program have been put into effect without the approval of Mr. Maass?

MR. KATZBERG: Objection.

THE COURT: Sustained.

Q Will you tell us, sir, whether or not, based on the practices and procedures that existed in the Security National Bank around 1967, would Mr. Maass' permission be needed for any -- for the implementation of any --

MR. KATZBERG: Objection.

THE COURT: Sustained.

You want to know, did Mr. Maass --

MR. KATZBERG: It's already been asked and

answered.

THE COURT: All right, that's all. Everything else follows.

Q Did Mr. Maass approve it?

A Yes, sir.

THE COURT: All right, that's all.

Most of these questions have been asked and answered.

MR. NAFTALIS: Yes, I know. I'm going to cut it short, your Honor.

THE COURT: All right.

Q Now, there was a question on cross-examination about what discussions you had with Mr. Shea regarding the program. First, did you have discussions with Mr. Shea regarding the program?

A Yes. I had many, many discussions among the very many discussions I had with Mr. Shea generally, almost daily.

Q Now, to the best of your recollection, did you discuss with Mr. Shea at any time whether or not officers received raises who were participants --

MR. KATZBERG: Objection. Asked and answered.

MR. NAFTALIS: This is an area that he went into on cross.

THE COURT: It's been asked and answered. You asked it on direct.

MR. NAFTALIS: I'm pretty sure I didn't ask it on direct.

THE COURT: I will allow it, but I am almost sure you went through it on direct, and it was gone into on cross. He said he counseled with Mr. Shea, if I remember his answer to it.

MR. NAFTALIS: All right.

THE COURT: It's a question of fact for the jury.

MR. NAFTALIS: Thank you.

THE COURT: I don't want to limit you because I don't think it would be right to limit you. But I think -- merely as a suggestion that I think he answered the question.

You did make that statement at one time, didn't you, sir?

THE WITNESS: Yes, sir.

MR. NAFTALIS: Could I have these two checks marked as one exhibit.

THE CLERK: Two documents marked for Identification as Defendants' Exhibit HHH.

MR. NAFTALIS: And these five checks marked as

the next exhibit.

THE CLERK: Five documents for Identification as Defendants' Exhibit III.

Q Now, Mr. Clifford, I believe there was some testimony on your cross-examination about loans that you had made to the contributions program, and the fact that partial repayment -- that monies may have been paid into the Governor's Club to you on one occasion; is that correct?

A Yes. Well, not quite. I think that monies were paid to me because I had paid money to the Governor's Club. That's what the testimony was.

Q Let me show you first a series of checks, which are five checks marked Exhibit III for Identification, and ask you, sir, if you can identify those checks.

A These are the -- my dues to the Governor Rockefeller's Club for the years -- $500 each for '67, '68. I'm missing my '69 check. '70, '72 and '73.

Q Let me get this straight. The missing '69 checks, are those the checks that your accountant has?

A I can't find them and I need them desperately for taxes this year. I think they are misfiled this year.

Q Now, you indicated certain loans were made to the club. I'm going to show you two checks marked HHH.

A Yes, sir.

Q Were these part of any loans that you made to the club in 1970?

A I believe they are. There is a check for a thousand, payable to Betty Jaeger Special; another 500, Betty Jaeger Special, May 5, 1970. And the other one is March 18, 1970. I believe they are advances.

MR. NAFTALIS: May I offer in Evidence HHH and III?

MR. KATZBERG: No objection.

MR. NAFTALIS: Thank you.

THE CLERK: Defendants' Exhibits HHH and III previously marked for Identification, marked in Evidence.

Q Now, Mr. Clifford, there's been a lot of testimony here about the officers donation program and the Directors donation program that preceded it?

A Yes, sir.

Q Did you believe, sir, that there was ever any difference between the officers program and the Directors donation program?

MR. PATTISON: Objection, your Honor.

THE COURT: Sustained. Bad question.

Q Did you have any -- what was your belief, sir, as to whether or not there was any difference?

A 1920

THE COURT: "Belief" is immaterial. Whatever he believes doesn't make any difference.

MR. NAFTALIS: It goes to his intent.

THE COURT: But the word "belief," in the question is not a good question because you're asking him to express an opinion of the operation of his mind. And that took place sometime prior. The preface to the question is bad.

MR. NAFTALIS: All right. I will try and rephrase it, your Honor.

THE COURT: All right.

Q Can you tell us whether or not there is any difference between the officers program and the directors program?

A The difference is the Directors use their Directors' fees to buy tickets. And at one point they got a raise in the Directors' fees. The officers bought tickets or gave it to Mrs. Jaeger to buy tickets -- later bought them directly. And they also had raises, too. I see no difference.

Q Do the fees that the Directors get and the salaries that the officers get in both instances come from the same source? That is, the general funds of the bank?

A That's correct.

MR. NAFTALIS: I have nothing else, your Honor.

THE COURT: Any questions.

MR. RYAN: Yes.

RECROSS EXAMINATION

BY MR. RYAN:

Q You told us that you felt Mr. Powell was the best one to handle the officers' fund?

A Yes.

Q What is the reason you selected Mr.Powell to handle the fund?

THE COURT: Well, I know you are objecting.

MR. PATTISON: Yes, objection.

THE COURT: But I think we can get over the question rapidly. And I will allow it for that reason.

THE WITNESS: Because the money was not the property of the bank. It would be audited by our inside auditors, or Arthur Young and Company, the outside auditors. And I wanted to be sure that the money was used for the purpose intended. And I decided that Frank Powell was the most reliable man in that bank to watch money.

(Continued on next page.)

Q What was the basis for your decision that Frank Powell was the most reliable man?

A Because I have always known that. And I had great respect for his integrity.

MR. RYAN: Thank you.

I have no further questions.

RECROSS EXAMINATION

BY MR. COHN:

MR. COHN: If your Honor please, I would like to introduce through this witness a certain document which we inadvertently did not do on the -- my original examination. I can show them to the Government.

THE COURT: One more is not going to clutter or hamper or do anything to this proceeding.

MR. PATTISON: I would like an offer of proof.

THE COURT: All right.

MR. COHN: All right. Do you want -- may I first have the witness identify these?

THE COURT: All right.

MR. COHN: May I have these marked. These are seven pages, your Honor.

THE CLERK: Seven-page document marked for identification as Defendant's Exhibit JJJ.

(So marked.)

Q Mr. Clifford, would you please look at this compilation of seven papers and tell me, sir, if you recognize what they represent.

A Yes, I do.

Q And will you tell us what they represent.

A Well, they are known as a call report. And it's running from the close of business on December 31, 1966 for each year on that same date through 1972.

Q Do these documents set forth a statement as of the end of the last day of each year from '66 through '72 of the assets, liabilities and capital account of the Security National Bank?

A Yes, sir.

Q On these statements is there a statement as of the last day of each year as to the deposits that the bank had?

A Yes.

Q And the nature of whether they were time or demand deposits?

A Yes.

Q Also a separate statement as to what deposits are held on behalf of Governmental agencies?

A Governmental and municipal.

Q Right. And does it also show which of these

are time deposits and which of these are demand deposits?

A Yes.

Q Will you look at it, please.

A If I remember --

Q To refresh your recollection, may I call your attention to this here.

A Break-out government and break-out state and political subdivisions. And they have -- they don't break out time and demand. I think they are grouped.

Q They are grouped together?

A Yes. United States Government could be -- not likely, but time. But state and political would most likely be time.

Q Is each one of these pages for each of the years an official statement by the bank? As a matter of fact, it is a legal notice which the bank is supposed to advertise?

A It is a call -- it's a call from the controller of the currency in Washington to all the national banks in the United States to issue a statement and publish it in certain specified public papers.

Q Right. And they are actually official published documents that were submitted or published by the Security National Bank?

A 1925

A Required by law.

Q Required by law. Is that correct, sir?

And each of these is signed by three directors, is that not so, sir-

A I have to look at them.

Q Will you look at them, please -- and just to shorten it -- and your name appears for one of the directors on each of the statements to authenticate the document?

A I signed all but one. And that was on December 31, 1970. That was Travers, Powell and Turz, as directors.

Q Do you question the authenticity for the 1970--

A No, sir. I don't question it.

MR. COHN: May I offer it as an exhibit?

MR. KATZBERG: May I see it?

MR. COHN: Sure.

Just to complete my statement, I offer them in evidence, yourHonor, as an exhibit on behalf of the defendant David Dowd.

MR. KATZBERG: No objection.

MR. COHN: Thank you.

THE COURT: Mark it.

Q Mr. Clifford, I just have a few questions I would like to put to you.

Let me take you back, sir, to about the time

that you and David Dowd had this talk about the directors discontinuing their contribution system. Do you recall that conversation, sir?

A Yes, sir.

Q And then thereafter you say that David Dowd did something; is that correct? You asked him to make some investigation of some kind?

A I asked him to visit metropolitan banks of a certain size to cover certain geographical areas and see if he could discover a system that would be workable that we didn't think of.

Q And Dave Dowd was your assistant at Security National Bank?

A He didn't have a legal title. But he was a senior vice president. He was my assistant. Assistant to the president. Everybody knew it.

Q He was also your assistant when you were working at the Franklin National Bank; is that correct?

A He was one of many.

Q Right. And from time to time you would give Dave Dowd assignments at the Franklin National and also at the Security National Bank; isn't that right?

A It was a little different. In Franklin, he hadn't reached the seniority he had at Security. He wasn't

known as my assistant. There were other people senior to him at Franklin. But I -- mostly in loan areas, I did give him assignments.

Q You also gave him assignments at the Security National Bank from time to time?

A Yes. More importantly.

Q Did you find, sir, that when you gave Dave Dowd an assignment, that he carried out this assignment with great care?

A Yes, sir.

Q And did you find that he always acted in a very prudent manner?

A Yes, sir.

Q And with regard to every assignment that you gave to Dave Dowd, did you find that he was usually very thorough?

A Yes, sir. He did a good job.

Q And did you find that -- particularly on an assignment that was not familiar to him, he went to great depths and great detail in doing his research? Did you find that to be the fact, sir?

A Yes.

Q And did you find that on matters that were not familiar to him, he would make a thorough and full

investigation of all of the facts?

A I have never known him not to.

Q And did you find that he would do this before he would report back to you?

A Most cases. And I guess every case if he didn't know.

Q Wasn't this so in your experience before he would take any action, he would investigate, do it thoroughly, report back to you; is that correct?

A I don't recall he ever gave me any information that I later had to say, "You didn't do it right."

I don't recall that. He was very innovated, Mr. Dowd, more so than I.

Q Did he always, Mr. Dowd, when you gave him a job assignment to do anything, would he ever after he completed his investigation -- would he not report back to you and tell you what he found and what he proposed to do, if anything?

A I know of no instance.

Q And Dave Dowd as your assistant would report to you very frequently, would he not, sir?

A We work closely.

Q Let's take the years '67 and '68. During these years, did Dave Dowd report back to you on a daily

basis, sir?

A No, I wouldn't say a daily basis. Unless -- there were times at which I would be out all day. Frequently. Let's put it as frequently. Not every day.

Q Let's take on the days when you were at the Security National Bank. Let's take the end of '67 and the beginning of '68 when you were at the Security National Bank, when you were physically present at the bank in your office, and Dave Dowd was there, wouldn't he report to you on a daily basis, sir?

A He would. Except he moved -- I think he moved out to Marketing, to a building nearby. I'm not sure it was a day-to-day basis. But I talked to him on the phone or talked to him physically present frequently.

Q Let's take that. On the day that he would not report to you physically, Dave Dowd would at least communicate with you by telephone?

A If he had something. We generally had something to talk about.

Q Now, let me take you, if I may -- withdrawn.

Now, with regard to Mr. Dowd's role in this political contributions program, is it not a fact that he was acting under Mr. Maass's direction and also your direction?

A Yes, sir.

Q And was it not a fact that the program as finally laid out was approved by Mr. Maass and also approved by you?

A Yes.

Q No question about that?

A No question.

Q And is it also not a fact that Mr. Dowd had no personal authority on any program involving increases of officers' salaries?

A He would have to come to the committee. He would have to come to Mr. Maass or to me or the salary committee. Personnel salary committee.

Q But he didn't have the authority to go to an officer and say to him, "Starting tomorrow you're getting a $50 a week raise," did he?

A I think he could have done that. He hired --

Q I beg your pardon.

A He could have done that on cases particularly with junior officers.

Q No. I am talking about the senior officers, the officers who were involved in this political contributions program. Could he have gone to Mr. Powell and say "Mr. Powell, starting tomorrow I am giving you a $50 a week raise.

And I am doing it on my own."

A No. I think he would discuss it with Herman Maass or myself, or take it up with the committee. I don't know that --

Q In other words, the committee would have to approve it?

A I am sorry. What?

Q The committee would have to approve these raises for senior officers?

A The committee or Mr. Maass alone. Mr. Maass and myself or me alone.

Q With regard to these senior officers, whom we are talking about at this trial whose checks have been shown by Mr. Katzberg to the jury; isn't that a fact, sir?

A Yes.

Q With regard to those officers, Mr. Dowd would have to go to you or Mr. Maass or to the salary committee before any salary increase could be put through?

A Yes, he would.

Q All right. Now, let me take you back, if I could, for a time when the directors came to you and they said, "We are calling it quits. We are not going to make any more contributions to this political fund."

Do you recall that?

MR. PATTISON: I object to that.

MR. COHN: I will withdraw the question if it creates a problem.

Q Do you recall a time that you told this jury that the directors complained to you that they didn't want to make any morepolitical contributions to the Pauline Reddy fund?

A They complined about Mr. Maass and I many times.

Q Mr. Maass and yourself?

A Yes.

Q All right.

A Many times. And we reached a cutoff date where they wouldn't do it any more.

Q And they were complaining about their income tax problem that you discussed with the Court and the jury?

A They weren't compensated for attending meetings the way they should.

Q Let me ask you this. Then you say you had a conversation with Mr. Dowd concerning the advisability of continuing this program? Do you recall that?

A I am sorry. I find I missed the first part of that.

Q Do you recall after that, you testified that

you had a meeting with Mr. Dowd in which you discussed with him the advisability of continuing a political contribution system?

A Yes. I was going to contribute myself and --

Q Yes. All I asked you is whether or not you had the conversation.

A Yes. No question.

Q No question about it, right?

A Right.

Q And at that time did you go back to the Board of Directors and asked them whether they felt it was good for the policy of the bank to continue a political contributions system?

A No. I told them at the Board, when they wanted to cut it out, and they said, find another way to do it. Don't take it out on us.

Q All right. Let me just bring you down to that.

Do you remember going back to the Board and telling the Board that there was to be a policy decision to be made as to whether or not the bank would continue with these political contributions? Do you remember doing that, going to the Board?

A I remember going back to the Board when this was approved by the law firm, and when we were going to

implement it, and telling them that the officers were going to buy the tickets.

Q All right. So there came a time, asyou remember it, that youdid go back to the Board and said to them, in words or substance, Fellows, you're not going to contribute to this fund any more. Counsel has approved a new program. But, in any event, we are going to be able to continue tobuy these dinner tickets and we are going to continue to make these journal ad contributions.

A I don't remember.

Q I don't mean in those words. But in substance, isn't that what you told the Board?

A In substance, the Board knew we were going ahead as officers to buy tickets, journal ads.

Q All right. And so it wasn't of any particular surprise to the Board members that they saw journal ads from time to time published in the name of the bank or in your name or Mr. Maass's name; is that right?

A That's right.

MR. PATTISON: Objection.

THE COURT: I will sustain the objection.

MR. COHN: All right.

Q As a matter of fact, did some of the Board members attend some of these dinners that were -- the

tickets for which were purchased through these political contributions program?

A I wouldn't know the answer to that. Many directors attended political dinners. And I would never go up to Maass and say, "Why are you here?"

(Continued on next page.)

BD 3aml

A 1936 Clifford-recross/Cohn

Q Let me invite your attention -- I am sorry -- are you finished?

A I never knew who bought it. I assumed they bought them themselves.

Q Isn't it a fact that directors moved that tickets to political functions were being purchased on behalf of the bank from a fund?

MR. PATTISON: I object, your Honor.

THE COURT: If he knows.

Q If you know.

A No.

Q Do you remember that yesterday -- I think it was yesterday -- Mr. Katzberg showed you this exhibit referring to Exhibit 121?

(Document shown to witness.)

A Yes, I remember it.

Q Do you remember he asked you to identify -- if I could just invite your attention to it -- those attending; is that correct?

A Yes.

Q Now let me work with you on this:

It has been established that this was the dinner for Mayor Abraham D. Beame's birthday party aboard the Queen Elizabeth; is that correct?

A I recall it well.

Q And there has been a lot of evidence in this case that the contributions program paid for the tickets? Do you remember that?

A Yes.

Q That has come out over and over again.

Take a look at the list of people.

Now, you told us -- incidentally, you told us that the Honorable Christopher McGrath was a member of the Shea law firm?

A Yes.

Q Did he pay for his ticket?

A I don't even remember if he went.

Q How about Dr. Ronan -- Dr. and Mrs. William J. Ronan, do you remember if they went that night?

A A lot of them on the list didn't show up. There may have been substitutions. I think Dr. Ronan went.

Q Sure he went.

MR. PATTISON: I object to that.

Was Mr. Cohn there?

Q Dr. Ronan was a director of the bank, was he not?

A Certainly he was a director.

Q Did Dr. Ronan come to you that night and say:

A 1938

"This is a crazy affair on the Queen Elizabeth II. Thank you for inviting me and my wife down here tonight"?

A He could have.

Q He wasn't an ungrateful person, was he?

A No.

Q Dr. Ronan didn't put his hand into his pocket to pay for the tickets, did he?

A I thiknk he was there. He didn't sit with me.

Q That is not what I'm asking you:

Dr. Ronan didn't pay for the tickets, did he?

A Not to my knowledge. He was a guest of our group.

Q Dr. Ronan was a director of the bank, a director of the SEcurity National Bank, who was going down to thie jazzy party and knows he didn't pay for it; isn't that right?

A Probably true.

Q So Dr. Ronan knew somebody else had to pay for it?

A Yes.

Q And didn't Dr. Ronan know that the ticket under which he and his wife attended that affair was paid for out of a political club that was maintained at the

A 1939

Security National Bank?

MR. KATZBERG: Objection.

THE COURT: Sustained.

Q Do you know that, sir? Did he ever tell you that?

MR. COHN: Could I get it in in that way, Judge?

THE COURT: I do not know how he is going to answer as to what Dr. Ronan knew.

Q Let me take you back to the time you went to see Bill Shea, the first time, when you told us about this conversation when he was going to assign George D. DeGenaro and you were going to assign David Dowd to the program.

Can you focus your mind on that?

A At the first meeting he didn't tell me that. I told him what I wanted to accomplish and I told him --

Q Let me stop you right there:

Do you remember going to Bill Shea after directors gave you a hard time on their making contributions --

MR. KATZBERG: Objection.

MR. COHN: I will withdraw the question.

Q Do you remember going to see Bill Shea after the directors made a decision, that is of a certain date, that they would no longer make contributions?

MR. KATZBERG: Same objection, your Honor.

THE COURT: I will allow it.

Q Do you remember whether you spoke to Bill Shea at that time?

A Certainly.

Q No question in your mind?

A No question.

Q Do you remember whether or not at that time you and Bill Shea discussed the problem that now existed, because there would no longer be any funds available to the bank to buy these dinner tickets and make contributions? Do you remember talking to him on that subject?

A Yes.

Q Do you remember at that time you asked Bill Shea's opinion as to whether or not it was a good thing for the bank to continue this program in some form?

A I think he told me all along that "you have to do these things."

Q Right after the directors stopped making these contributions, or to be more precise right after the time that the directors told you that they would no longer make contributions, you talked to Bill Shea and got that opinion from Bill Shea?

A Yes.

Let me correct one thing, not all directors wanted to stop the program. The same three or four people. The others said nothing. I know that Bill Shea would have continued it if it was up to him and Dr. Ronan too.

Q There is nothing here to the contrary.

Regardless of whether it was two or three, there came a time that you decided -- withdrawn.

There came a time when the Board of Directors as a group decided that as of a certain date the Pauline Reddy fund was going out of business?

A Yes.

Q It was at that time that you had this conversation with Bill Shea in which he expressed the opinion that the political contributions program should be continued; is that right?

A Yes, in some form.

Q You didn't rely on Dave Dowd's opinion as to whether or not it should continue?

A I told him we'd get hurt if we cut way back, because the other banks wouldn't.

Q The decision was to go ahead with a different political contributions system was not based upon Dave Dowd's opinion, you consulted with Bill Shea and Bill Shea expressed that opinion also, had he not?

A Yes.

Q Had you consulted with Herman Maass at that time?

A I am sure we talked to him. I don't have a specific recollection.

Q Do you remember --

A He proposed a plan, I know that.

Q Let me withdraw the question:

Do you remember that after the Board of Directors made the determination that the Pauline Reddy fund was going to be phased out, that you and Herman Maass did have a conversation as to whether or not a substitute program should be created?

I am not concerned about a time or a place. Did you have such a conversation?

A I explained what we were thinking about.

Q And Herman Maass expressed an opinion to you as to whether or not there should be a continuance of a political contributions program?

A He also felt that way.

Q He felt it was a good thing to do?

A Yes.

Q In addition to talking to Bill Shea and David Dowd, you also spoke to Herman Maass about this; is that

right? A 1943

A Yes.

Q Now, how about Mr. Spitzbart? He had been in the bank, he was a lawyer, he was a director at that time, right? Did you talk to him about it after the Pauline Reddy fund was being phased out? Did you talk to Mr. Spitzbart about what should be done now that the Pauline Reddy fund will be phased out?

A I don't remember a specific conversation. I talked to him frequently.

Q You asked his opinion as to whether this program should be continued or another program should be put into existence? Do you remember talking to him about that?

A Specifically no, but I am sure --

Q Mr. Clifford, I am not asking you for a particular day or a particular place. I am asking you if generally you remember -- I know we are talking about something that happened nine years ago -- whether at that time you remember going to Mr. Spitzbart at some time and discussing with him the problem that was being created by the fact that the Pauline Reddy fund was now going to be terminated?

A Specific conversation I don't remember.

A 1944 Clifford-recross/Cohn

Generally, I was close to Sam Spitzbart.

In fact --

Q Do you remember that Sam Spitzbart --

THE COURT: Why don't you ask him the question: Did you have such a conversatrion or didn't you?

THE WITNESS: He knew that the directors' program --

THE COURT: Can you say whether or not you had such a conversation, yes or no?

THE WITNESS: I had such a discussion.

Q You had such a discussion with Sam Spitzbart.

Do you rememb er whether Sam Spitzbart expressed an opinion to you as to whether he also felt it was desirable for the bank that this program be continued?

A I am sure he never advised against it and he became a member of the program.

Q Do you remember that he gave you an opinion to the effect that he also felt that this program should be continued?

MR. PATTISON: I object.

THE COURT: He can say yes or no whether he has any memory.

A I have no memory.

THE COURT: He says he has no memory of it.

MR. COHN: I will go to another subject.

THE COURT: We will take a short recess.

(Recess taken.)

RECROSS EXAMINATION

BY MR. COHN (Continued):

Q Mr. Clifford, I want to take you back, if I can, to this talk that you had with William Shea in the fall of 1967. It is a long time ago I know. That was a conversation where just to refresh your recollection Shea says he will assign DeGenaro and you say you will assign Dowd. Do you remember that conversation?

A Yes.

Q Do you remember in that conversation that you and Mr. Shea agreed that DeGenaro would be working from the Shea side and Dowd would be working from the bank side and that Dowd and DeGenaro would work together, they would be the contact people?

A The second conversation with Mr. Shea, about a week later, I learned that he was being assigned.

Q You went to Bill Shea and you told him generally that the whole idea of his assigning a man was to find a legal and proper way for the bank to be able to make the political contributions that it had been making

A 1946

under the Pauline Reddy fund?

A It was my sole intention.

Q Did you not stress to Mr. Shea that it had to be legal and proper?

A He knew that. I told him that I didn't want to get into trouble.

Q Shea knew the whole purpose of DeGenaro and Dowd talking to each other was to come up with a legal and proper plan to succeed the Pauline Reddy fund?

MR. KATZBERG: Objection.

THE COURT: Yes.

Q Did Shea tell you that is what he knew and understood?

A Yes.

Q And then do I understand you to say that about a week later Shea spoke to you again? Do you remember that?

A Yes.

Q And now Shea says to you in words or in substance, "I looked over my 40 or 50 lawyers and I picked out DeGenaro?

A He just told me he assigned DeGenaro.

Q Did you tell Shea that DeGenaro should get in touch with Dave Dowd because you had assigned Dave Dowd to the job?

A No, I did not say that. Mr. Shea told me to give

Mr. DeGenaro some time to research the law. I think he said two or three days and then have Dowd get together with him and go over the plan.

Q And then all the things happened until finally there came a time that you told us Dave Dowd said to you:

"I have been over this thing with Mr. DeGenaro and this is what he has approved," and he outlined to you what Mr. DeGenaro approved; is that correct?

A Yes.

Q Then after that there was set in motion the creation of the Betty Jaeger fund; is that correct?

A I don't know how that was set in motion. It happened.

Q In a time sequence, after this conversation was had, and Dowd spoke to you and Dowd spoke to Maass, you're speaking to each other, there finally came about the Betty Jaeger fund; is that right?

A That's right.

Q Now, after Dave Dowd came to you and he told you about what DeGenaro had approved, did you have occasion to meet on any sort of a frequent basis with Bill Shea?

A Almost daily.

Q And I take it that it would be either at the

13 A 1948 Clifford-recross/Cohn

bank or at his office on Madison Avenue?

A Not at the bank, but visiting him and using that office in the city.

Q And you had frequent contact with Mr. Shea?

A I consulted with him regularly.

Q And you had a relationship with Mr. Bill Shea which was an informal relationship?

A It got to be quite close in the passage of time. I got to respect to his judgment, particularly his business judgment.

Q For you to talk to Bill Shea at the end of '67 or '68, you didn't have to call his secretary for an appointment, and be told to come down Thursday at a certain time whereby you had to wait for an appointment?

A If he was free, I just bounced in.

Q If you couldn't see him at the office, would you have these informal talks perhaps after office hours?

A I would talk to him on the phone if I couldn't see him personally, if I was staying on the Island, and we'd socialize a bit.

Q Did he ever take you to Shea Stadium to see a ballgame?

A Many times.

Q And you talked to him there?

A I would have dinner or lunch with him, depending if it was an afternoon game or a night game.

Q You didn't get the same dinner you got on the Queen Elizabeth, did you?

A A little better there.

(continued next page)

Q I am not trying to pin you down to a specific place or a specific time. Do you remember a conversation with Bill Shea after Dave Dowd came back and told you that DeGenaro had approved the plan, that you told Bill Shea the substance of what Dave Dowd told you?

Do you remember such a conversation with Bill Shea?

A What do you mean by "substance"?

Q Did you say to him in effect:

"I want you to know that Dave Dowd told me that this is what DeGenaro told him."

A I told Mr. Shea that I was pleased that we had gotten approval of the plan and I thought it was necessary to compete with the other banks.

Q And Bill Shea and you discussed the plan that you were pleased DeGenaro had approved; isn't that right?

A Yes.

Q So Bill Shea knew what was going on with the plan, to your knowledge?

MR. PATTISON: I object.

THE COURT: That is an inference for the jury.

Q Let me take you back:

Do you remember there came a time when Bill Shea made out a $2,000 check to the Betty Jaeger special account?

A I remember the time.

Q Let me show you some of the exhibits and while you are looking at that may I have these marked for identification?

THE CLERK: Documents so marked for identification as Defendants Exhibits KKK and LLL.

Q Do you remember, Mr. Clifford, that while Bill Shea was on the witness stand and Mr. Ryan was questioning him, that Bill Shea admitted that this was his check made to the Betty Jaeger special account and that he wrote it out in his own handwriting? Do you remember that testimony by Bill Shea?

A I recognize his handwriting.

Q This check was dated October 15, 1969?

A Yes.

Q You remember that?

A Yes.

Q Do you also remember when Mr. Ryan questioned Mr. Shea he admitted that he had gotten the money back within a couple of days?

A A short time.

Q Would you please look at Defendant's Exhibit KKK --

MR. COHN: That has a bad connotation. Could we get the number changed?

Q (Continuing) -- do you remember this exhibit,

that this is the check that Betty Jaeger wrote to pay back Bill Shea $2,000?

(Document shown to witness)

A Doesn't appear to be a couple of days, looks like --

Q Is it October 15th -- all right, two weeks. I will not argue for a couple of days. It was paid back to him on October 28th, right?

A Right.

Q Would you also look at the exhibit for identification, LLL, and I ask you if you recognize that, that on the same day Betty Jaeger wrote a check for the same $2,000 to the Abraham Beame Campaign Committee?

Would you please look at that --

MR. KATZBERG: Objection to "the same $2,000."

MR. COHN: I meant the same amount. I am not saying it is the same $2,000.

A Yes.

MR. COHN: May I have these two checks marked into evidence, your Honor?

MR. KATZBERG: I believe they are already in evidence as part of the Jaeger exhibit.

MR. COHN: Will we be able to find them?

THE COURT: They are in evidence. You cannot put something in evidence twice.

Q The first $2,000 that Bill Shea loaned to this fund, he got his money back inside of two weeks?

A Yes.

Q These checks refresh your recollection?

A It appears to be so.

Q Incidentally, do you recall Bill Shea telling Mr. Ryan that he knew the $2,000 was going to be used for political contributions?

A Yes.

Q Let me show you a photocopy of Mr. Shea's check to Betty Jaeger. It has been received in evidence. I do not know where the original check is.

MR. COHN: Any objection to using a photostatic copy, Mr. Katzberg?

MR. KATZBERG: It is Mr. Ryan's exhibit.

Q (Continuing) Take a look at this check dated May 8, 1970.

(Document shown to witness.)

A Right.

Q Do you remember that you got a telephone call from Bill Shea in which he told you that Dave Dowd had asked him to loan the Betty Jaeger fund $15,000?

A I remember we talked about it. The substance whether Dave Dowd did, I don't recall.

A 1954

Q Do you remember that Bill Shea was on this witness stand and he testified that after he had a conversation with Dave Dowd about the $15,000 loan, he called you on the telephone?

A He talked to me, yes.

Q Do you remember that conversation?

A Yes.

Q Do you remember in that conversation that Mr. Shea made some reference to the fact that he was told by Mr. Dowd that it would take about a year, year and a half for him to get his money back?

A I knew he was concerned about getting his money back and I remember him saying something about the time limits.

Q Do you remember in that conversation that you and Bill Shea had a talk about the reason why it was taking so long for him to get his money back?

A Yes.

Q Do you remember in that conversation --

MR. KATZBERG: Objection, your Honor.

THE COURT: He says he remembers it.

Q Do you remember it?

A Yes.

Q Tell us what you can recall now what the discussion was between you and Mr. Shea six years ago when he

wrote that check out.

A I told him I was disturbed about the amount involved.

I told him that everybody's request was a life or death request such as The Center Moriches Ladder. We didn't go to that dinner. I said I was trying to come down on unnecessary requests.

Q Do you remember anything else?

A Yes, I said there are new people in the bank, people left, and we were trying to get some additional people into the club.

Q Do you recall in that conversation that you and Bill Shea discussed the fact that the reason why he has to wait for a year, a year and a half to get his money back was because that transaction took place in May of 1970 and that you had told him that they could not bring more members into the club because the Board of Directors would not approve any more salary raises until January of 1971 and you have to wait until Januaryof 1971 to get new club members?

A I don't recall I told him that. I did know that they wanted to annualize the raises and not have people come up all the time.

Q You don't remember that?

A I don't recall.

A 1956

Q Do you remember Bill Shea saying to you that the reason he was told why he had to wait and he was checking with you to find out if he had gotten the right information?

MR. KATZBERG: Objection.

THE COURT: I will allow it.

Q Do you remember that?

A Not specifically.

Q Did there come a time after that -- may I have a minute?

(Pause)

Let me ask you to search your recollection as to something that happened -- withdrawn.

Let me search your recollection again as to the fall of 1967. Do you remember a conversation between Dave Dowd and yourself wherein Dave Dowd told you he had asked Mr. DeGenaro for an opinion letter and that Mr. De Genaro was giving him a hard time?

A In 1967?

Q Yes, right at the time these conversations between Mr. De Genaro and Dave Dowd were taking place with respect to the Pauline Reddy fund having ended and the Betty Jaeger fund coming into existence.

A I recall that. It could have been.

Q Do you have any recollection of a conversation

with Dave Dowd at that time to the effect that Mr. DeGenaro would not give him an opinion letter and that you should take it up with Bill Shea and see what you could do about it? Do you remember that?

A You are talking about Dave Dowd in '67, '68?

Q 1967.

A No, sir, I don't recall that. It could have happened.

Q Don't recall that, either?

A Could have happened. I don't recall.

Q Do you recall at any time after the end of 1967 or 1968 ever having a conversation with Bill Shea on the subject of an opinion letter with regard to political contributions program?

A No, I don't recall.

Q You have no recollection?

A No recollection.

Q Now, let me take you back -- there is no question there came a time when $15,000 was repaid to Mr. Shea; is that right?

A I think it took a lot longer than a year and a half, though. I thought it was a couple of years.

Q Let me ask you this, sir:

This exhibit was shown to Mr. Shea by Mr. Ryan

and will you look at that, sir?

Does that not refresh your recollection that the first $5,000 was paid back to Mr. Shea in the form of a Security Bank check?

A An official check, yes.

Q An official check.

And this check is dated January 19, 1971?

A Right.

Q Do you recall Bill Shea telling Mr. Ryan in response to Mr. Ryan's question that he knew that the $15,000 that he loaned was to be used for political contributions?

A Yes.

Q And did you also hear Mr. Shea say that he knew the bank couldn't make a political contribution; do you remember him saying that on the stand?

A I recall it.

Q Do you recall whether Mr. Shea ever said that he received a $5,000 check to repay monies that he loaned, which he knew were going for political contributions, which represented something improper on his part or the bank's part?

A Do I recall the conversation?

Q Did he ever complain to you about that at any time?

A No, sir.

Q When this check went to Mr. Shea, did Mr. Shea

ever make any effort to return the check or refuse to accept the check?

A I never discussed it with him.

Q He never brought it to your attention?

A No.

Q He never came to you and said;

"Pat, Iwant you to know I can't accept a bank check to repay my $15,000, because it is repayment to me of monies that I loaned for political contributions."

Did Mr. Shea ever come to you and make that complaint?

A No recollection that we ever discussed the repayment of the $5,000 in any form.

Q Now, did Mr. Shea ever complain to you with regard to any of the checks that were used out of the political contributions to repay him his $15,000?

A Mr. Shea?

Q Yes.

A Somebody told me about those $100 checks were a nuisance. I thought it was his secretary.

Q That is not my question, Mr. Clifford.

Did Mr. Shea ever come to you and say: "Look, I don't want these checks from these people. I don't know who they are. I don't want to be involved. I don't want to take

the money"?

Did he ever say anything like that to you?

A I have no recollection and I never took any action to stop it.

Q And he saw you on a day-to-day basis?

A As near as --

Q As near as you could see him.

Did he ever come to you once with regard to all these checks that Mr. Katzberg told us about that were made payable to Bill Shea? Did he ever come to you and say:

"Pat, what are these checks? Who are these people? I don't know what this is all about."

Did he ever say that to you?

A No.

Q Did he ever say to you, "Pat, I don't want this money. I don't know what it is for. I want a check from the bank. I loaned it to the bank and I want a check from the Betty Jaeger account"?

Did Mr. Shea ever say that to you?

MR. PATTISON: I object to Mr. Cohn's testifying.

THE COURT: Yes.

Q Did he ever say anything like that to you, in words or in substance?

A No, sir.

Q Let me take you back again -- you have told us that you personally made substantial political contributions out of your own pocket; is that correct?

A Yes, sir.

Q Over the years; is that correct?

A Many thousands of dollars.

Q And you did this out of your own salary that the bank paid you?

A Yes.

Q Anybody twist your arm to make those contributions?

A Just the politicians did.

MR. COHN: I think that is a fair answer.

MR. KATZBERG: Objection to what Mr. Cohn thinks.

THE COURT: Yes.

Q Anybody in the bank ever tell you to do that?

A The reason I did , the club was always broke and it was a worthy cause and we did it.

Q Do you have any recollection of these two checks referring now to Exhibits BBB and CCC?

(Documents shown to witness)

A I don't recall the checks, but I do remember going to some Humphrey for President affair..

Q Do you recall what the source of that was, sir?

A I can only tell you what I see here, a check of

William A. Shea, Special, drawn on the Irving Trust.

Q Mr. Shea made a contribution of a thousand dollars to the Humphrey for President Club?

A That is what it appears to be.

Q Do you know if he was reimbursed for that?

A I don't know.

By the club, you mean?

(continued next page)

Q By the club or by you personally?

A I am sure I didn't. I think I made a contribution at the time.

Q That had nothing to do with Mr. Shea's contribution?

A I don't think so. I have to examine the records.

Q All right. Now, how about this check, sir? Do you recall anything about that check at all?

A I remember him telling me that Congressman Brasco had stopped in one day. And I ended up giving him a thousand dollars or something.

Q Okay. Did Mr. Shea ever tell you that there was anything improper in his writing out a check on his own personal account, made payable to a man who was running for reelection for Congress, and putting on that check that it was a contribution for the Security National Bank? Did Mr. Shea ever tell you he had any qualms about that transaction in his mind?

A No. Never discussed that.

Q As a matter of fact, you had nothing to do with the issuance of this check by William Shea, did you?

A He told me Brasco was a Congressman and --

Q That's not what I am asking you. The physical issuance of the check -- this went out by Bill Shea alone,

right?

A I saw it -- I saw it in the trial. I remember it was passed around.

Q And you remember Bill Shea saying a secretary typed up the check and he signed it; is that right?

A Yes.

Q And he's the lawyer for the bank, he was at that time, on November 16, 1971?

A Yes.

Q Isn't that right?

A Yes, he was. His firm was the -- was representing the bank.

Q And he -- his secretary typed on a check that Bill Shea signed, on behalf of Security National Bank?

A Right.

Q And this is the lawyer sending a check to a man running for office, and right on the check, "Contribution for a National Bank"? Do you remember -- do you remember Mr. Shea testifying to that when he was on the witness stand?

A I'm hazy on that. There was so much testimony.

Q All right. Did Mr. Shea ever come to you at any time and say to you that there was something he was concerned about with this check? Referring now to Exhibit

BDD, the one to Frank J. Brasco?

A All I remember about it --

Q No. Did he come to you and complain to you?

A No. Never said anything.

Q All right. And you had never seen this check until it was shown in court; isn't that right?

A That's right. I have no recollection of ever seeing -- no reason to see it.

Q I am not suggesting that you did, sir. This is the lawyer who testified, who represented the bank; isn't that right?

A His firm did. He was the senior partner.

Q And certainly represented the bank on November 16, 1971?

A No question.

Q All right. And this is the lawyer who had told you that he knew that a bank could not make the contributions, certainly in a federal election?

MR. KATZBERG: Objection.

MR. COHN: All right, I will withdraw the question.

Q Let me just ask one final question.

Is there any doubt in your mind, Mr. Clifford, that through all the years, from 1967, 1968, 1969,

1970, all the way through 1974, when the Security National Bank had these political contributions, that it was always the belief of everybody in the bank that this was a legal and proper method of disbursing these funds?

MR. PATTISON: I object.

THE COURT: Objection sustained. It calls for the operation of his mind.

Q Mr. Clifford, if you had known that there was anything improper in this contributions program --

MR. PATTISON: Objection.

Q (Cont'g) -- would you have permitted it to have continued?

MR. PATTISON: Objection.

THE COURT: I will allow it.

THE WITNESS: Would I permit it to continue?

Q Yes.

A Absolutely not.

Q Isn't it true that you made it perfectly plain to the lawyers at the beginning of this program that it had to be legal and proper? Isn't that what you told Mr. Shea?

A I think I used stronger words.

Q Well, in words --

A I wanted to protect my bank. I don't want any problems.

Q And did Mr. Shea at any of the times that you were with him in his office, or any of the times that you had dinner or lunch with him, or at any of the times that you were at a ball game together, did he ever say to you in words or substance, "Pat, I don't like the program at the bank"?

A No, sir.

Q If he had said that to you, would you have stopped the plan?

A I would have stopped it. And I think if he felt that way, he probably would have stopped it.

Q And at that time you were president of the bank and you would have used your offices as president to stop a program that somebody told you was illegal?

A Sure. I was too far along and too well set in benefits to get into trouble. I got no benefit out of this.

MR. COHN: I have nothing further.

THE COURT: Do you have any questions?

MR. PATTISON: I have some questions.

RECROSS EXAMINATION

BY MR. PATTISON:

Q Sir, you said Mr. Dowd was assigned to a certain task; is that right, back in 1967?

A Are you talking about the contributions club?

Q Yes.

A I wouldn't say he was assigned specifically. He was involved in our discussion.

Q I was referring now to -- you said earlier, Mr. Dowd was assigned to go and look at -- lock at other banks and see how they ran.

A I am sorry. Yes, that's correct.

Q And as Mr. Cohn brought out, he was a very thorough man?

A Yes.

Q Right?

A I considered him so.

Q And he did his job well?

A Yes, sir.

Q Carefully?

A Yes.

Q And he would look into the facts, research issues?

A I have always known him to do that.

Q How long did it take him from the time you assigned him to this task until the time he came back to you?

A I couldn't give you specific days. Many

A 1969

years ago. Some lapse of time.

Q It certainly couldn't have been a day or two?

A Oh, no. Never physically be able to do it.

Q Must have been at least a month?

MR. NAFTALIS: Objection to what must have been.

THE COURT: Yes. Could it have been --

Q Could it have been as long as a month?

THE COURT: Nothing wrong with that question.

A Yes. I have no way of knowing. I have no way of knowing the time frame in '67.

Q The report ultimately was made to you, right?

A Yes, sir. Verbal reports to me.

Q Do you have a copy --

A A copy?

Q (Cont'g) -- of anything Mr. Dowd wrote to you concerning that?

A No, I have no records. My records are in the bank or in the Chemical Bank. Wherever they might be.

Q Was there a written report done?

A I don't believe so. I think he told me.

Q Well, did he have any notes with him?

A Could have.

Q These were banking matters; is that right?

A This was an investigation of the other commercial banks as distinguished from savings or savings and loan to find out what systems were in effect that we might -- that we might --

Q I'm sorry.

A Systems that we might not have thought of that would be helpful.

Q It was done in the course of his work, right?

A Yes.

Q It wasn't his own personal project, right?

A Oh, no. I asked him to do it.

Q Did he make a written report to you?

A No. Because he only had one thing that I was interested in.

Q Did he keep all of the data that he got tucked in his head, sir?

A I don't know what he did, sir. I don't know who he saw.

Q You never saw a memo?

MR. NAFTALIS: Objection.

Q A report?

MR. NAFTALIS: Asked and answered. This is the third time he's on this.

THE COURT: He has a right to test him.

A I don't recall that I did.

Q Might you have, sir?

A I don't think this was written up. I don't think the type of thing he did was called for.

Q It was the usual custom and practice, sir, was it not, to maintain copies of any and all reports done along those lines; is that right?

A This was an unusual thing. I don't recall I ever asked him to do anything like this before. If it was a bank matter, like checking the high, low and medium salary for a particular officer's job, he would have to put it down because he would never remember it. So I would say that would call for a written report. But to tell me that he found out one plan in County Trust, in my judgment, wouldn't call for a written report and I wouldn't have asked for one.

Q Did you tell him not to write anything down?

A No.

Q Sir you said, I believe, that you chose Mr. Powell to be in charge of the funds?

A Watch the funds.

Q To watch the funds. And tell us why again, sir.

A Why? Because the funds were the property of the officers of the bank, and not of the bank. And as such, the auditors would not automatically -- the bank's auditors

would not automatically audit those funds. And Arthur Young and Company are outside certified public accountants. They would not audit their funds. It wouldn't be proer for them to get paid for doing things -- for examining things that weren't the property of the bank.

Q It wouldn't be proper?

MR. NAFTALIS: Let him finish.

Q All right.

A These are personal funds of officers. And I was concerned about somebody getting sticky fingers. If they were giving it to a clerk, no one was watching, that instead of buying ten tickets to a dinner, that they would only buy eight, and then $200 would disappear. I wanted that watched.

Q Well, certainly you were not afraid of any officers taking any of these funds?

A No, not really. But if I thought -- if I thought anybody would steal in any bank that I was connected with, and I had the authority, I'd fire him -- not if I thought he stole. But if I knew I would, you know --

Q If it was his own funds, how is it any theft?

A No. The money --

MR. NAFTALIS: Objection. Argumentative.

THE COURT: Yes, that is argumentative.

Q But it was their own funds, right?

A Their own funds funneled into one place. Not under their control either.

Q Sir, you said that your plan or the ultimate plan that actually came into effect, it did involve officers being given raises?

A Yes.

Q For the specific purpose of making political -- buying tickets, journal ads? Buying them; is that right?

A Yes, sir.

Q And the officers were to get a raise, a $1700 raise; right?

A Yes, sir.

Q And that this raise was theirs permanently?

A Yes.

Q Couldn't be taken away?

A That's correct.

Q Whether they agreed to pay a hundred a month or not?

A That's correct.

Q And you instructed -- just see if I am right. If I am not right, tell me, sir.

You instructed Mr. Dowd to tell the officers that --

A 1974

MR. NAFTALIS: I think we are going a little beyond the scope of recross here. I don't remember this being --

MR. PATTIS: Mr. Naftalis brought it out, whether it was their funds or not.

Q Would you please answer.

A I don't think I -- I think you're wrong.

Q You did not tell Mr. Dowd?

A I don't think I told Mr. Dowd. I think the lawyers told him that -- the lawyers told him how to handle the program. And he told me about the program. And certainly I said, I won't vary from what the lawyers asked you to do.

Q Well, sir, --

A I told him that -- if I told him that in that sense, yes.

Q Was it your understanding that when the officers were asked to join the club, they were told whether they joined or not they got a $1700 raise?

A I think -- as I understood it, you would ask the officer -- impress upon them that it was voluntary, and that if they joined the club they would get a raise.

Q So they wouldn't get a raise until they agreed to pay $100 a month; is that right?

A No, that is not so. People who join the club --

didn't join the club got raises. So I wouldn't have said that.

Q I am talking about the specific $1700 raise. Okay. With regard to these raises, were the officers told that whether they agreed or not, they had a $1700 raise?

A I don't know what was told, sir. I already testified that I never spoke to any of these officers involving this 1700.

Q Well, was it your understanding that Mr. Dowd was to tell them that they had a $1700 raise regardless of whether they agreed to join the club or not?

MR. NAFTALIS: I object. It has been asked and answered before. He said people had agreed to join.

MR. PATTISON: Please, Mr. Naftalis --

TH COURT: I will allow it.

THE WITNESS: I am sorry.

MR. PATTISON: Would you please, Mr. Reporter, read it back.

(Record read.)

THE WITNESS: No, that was not my understanding.

Q So, in other words, your understanding was that they would only get the raise if they agreed to pay $100 a month back; is that right? Without that --

A I don't want to quibble about it --

Q Without that understanding?

A That probably would have been my understanding. But my understanding was that he was -- it was going to comply with the program that he took from the law firm. And he was going to carry --

MR. PATTISON: I move to strike it as not responsive.

THE COURT: Yes, it's not responsive.

Q In other words, sir, and again correct me if I am wrong --

THE COURT: I think the problem is, "In other words." Why don't you ask you: was it your understanding.

Q Was it your understanding that the officers would not get the raise until and unless they agreed to pay $100 a month back?

A Mechanically, I had no understanding of the conversation between Dowd and these people. I never thought about it.

Q You said, did you not, sir, that Mr. Dowed was a very thorough man, careful man?

A Yes.

Q Would he make things up on his own?

A 1977

MR. NAFTALIS: Objection.

MR. BANNIGAN: I object to what he thinks.

THE COURT: Objection sustained. Now you're asking what somebody else might do mentally. You're not allowed to do that. No operation.

Q Mr. Cohn asked you about the QE II party.

A Yes.

Q And about what Dr. Ronan might have said when he was with you.

A Yes, sir.

Q About thanking you for letting me come to this affair?

MR. BANNI[illegible] I object. You sustained an objection to Mr. Cohn on that score.

THE COURT: I don't think it was what he said. I think it was what Mr. Cohn said to him that Mr. Ronan must have said. And I don't think that is evidence at all, as I recall it.

Q Did you -- sir, did you ever tell Mr. Ronan, in words or effect, "Boy, if you only knew how many raises we had to give to get all of us here, you would be amazed"? Did you ever tell him that?

A No. I'm sure I didn't.

Q Took a lot of raises, though, right?

A Took a lot of raises?

Q Sure.

A For the Beame birthday?

Q Sure.

A $2500. So --

Q Not that much, really; right?

A Not really.

Q Sir, Mr. Cohn also asked you about a check to Mr. Shea, a bank check, $5,000; is that right?

A Yes, sir.

MR. PATTISON: Do we have that check, please?

MR. RYAN: Certainly do.

Q Now, this bank check was issued to reimburse Mr. Shea for the loan to the club; is that right?

A I don't know. Somebody said it was. I had no actual knowledge. I never saw the check until it was brought.

Q You mean this check was issued without your knowledge or approval? You had no idea about it?

A I had no specific approval of this check. It would never get to me as chairman.

Q General approval, sir. Did you have any idea that Mr. Shea was going to be paid back with a bank check?

MR. NAFTALIS: It has been asked and answered.

MR. PATTISON: I regret to say, your Honor, it has not.

THE COURT: All right.

Did you?

THE WITNESS: No.

THE COURT: That's what he says.

THE WITNESS: I had no idea. Never thought about it. Nobody mentioned it to me.

Q Who signed that check, sir?

A I'm guessing that it's William O.B. Kelly, who is an assistant vice president in the Huntington office. It's hard to make it out.

Q That is the main office, isn't it?

A That was the main office.

Q Your office?

A 71.

Q That's your office, isn't it?

A I don't know if we were in Melville at the end of that year or the beginning. William O.B. Kelly used to be down in Huntington. I assume he was when we were still in the Huntington office.

Q So you have no idea how it came that he issued a $5,000 bank check?

A No. Never saw it until --

Q To Shea. Whether you saw the check or not.

A No. I had no idea how it came about.

Q No idea. And you certainly weren't aware of that fact when you told Langdon that either Frank Powell or you would have to pay Mr. Shea back?

MR. NAFTALIS: I object.

Q Do you remember saying --

MR. NAFTALIS: This is beyond the scope of the redirect. There was nothing asked about Mr. Langdon on any redirect at all.

THE COURT: I think it's beyond the scope at this point.

MR. PATTISON: Your Honor, this check has certainly been brought out.

MR. NAFTALIS: I think he's questioning ad nauseam about this check.

Q All right. I object to that comment.

THE COURT: I don't think comments --

MR. PATTISON: I move that it be stricken.

MR. RYAN: I object to all the colloquy.

THE COURT: I tell them not to have colloquy.

MR. RYAN: That's right.

THE COURT: I do better than what you do. I don't know why they insist on doing it. It serves

no purpose to the jury. And I will tell you now, disregard whatever the lawyers say to each other. It has nothing to do with the case.

All right. Sometimes they get an idea that they might be hinting to something. They're hinting to nothing. Just take the facts from the witness stand. It has no probative value in this case.

All right.

MR. PATTISON: Nothing else, your Honor.

THE COURT: All right. Any other questions? No other questions.

You may step down.

(Witness excused.)

THE COURT: All right.

MR. NAFTALIS: I have one more witness.

THE COURT: All right. Bring in the one more witness and then we are through.

L A W R E N C E F. S T E H L, called as a witness, being duly sworn by the clerk of the court, testified as follows:

DIRECT EXAMINATION

BY MR. NAFTALIS:

MR. NAFTALIS: May I inquire, your Honor?

THE COURT: Yes.

Q Mr. Stehl, in a clear, loud voice, what do you do for a living, sir?

A Formerly, I worked with the Security National Bank. Now I work for the Chemical Bank in Islip.

Q What is your title at Chemical?

A I am an assistant vice president, officer in charge of that office.

Q Prior to that you worked for the Security National Bank?

A Yes, sir, I did.

Q For how many years, sir?

A I started with them in '71. February of '71.

Q And what position did you hold with the Security National Bank?

A Security National Bank, vice president, officer in charge of their Huntington office. And I was vice president, officer in charge of their 48th Street office.

Q Is that the Rockefeller Center office that they took over from the Royal Bank when they merged?

A Yes. 1212 Avenue of the Americas.

Q That was the principal New York office?

A Yes, it was.

Q And Huntington was the principal Long Island office?

A Yes.

Q Now, I want to direct your attention to approximately April of 1973. Did you have a conversation with anyone on the subject of political donations?

A Yes, I did.

Q Do you recall who that person was?

A Yes, I do.

Q Who was that?

A Mr. Rex Johnson, who was the former president of the bank.

Q And, to the best of your recollection, Mr. Stehl, what did Mr. Johnson say to you and what did you say to him?

A I was called up to his office. I don't know the exact date in April. And he informed me -- he said, "Now that you're a senior officer of the bank, you'll be required to contribute on a political basis for political contributions.

Q Did he say anything about whether or not you -- whether your participation was voluntary or not?

A It was voluntary. There was no hammer. No hammer whatsoever.

Q Did you feel you had a choice to say yes or no?

A Yes, I did.

Q What did you say?

A I said, yes, I would.

Q And -- now, did you have any discussion at that time regarding Mr. -- with Mr. Johnson regarding any raise?

A No, I did not.

Q Did you ever subsequently get a raise from him?

A No, I did not.

Q Would you have taken the raise if it was given to you?

A Yes, I would.

Q Now, did there come a time when you made certain donations?

A Yes, I did.

Q Would you get a call from a man named Chadwick?

A Yes.

Q He would call you up and ask you to give -- if you would give certain monies to certain people?

A Yes.

Q Did you ever refuse Mr. Chadwick's requests?

A There were several months that I did refuse.

Q And you just got passed over?

A Just passed over. There was nothing said.

Q You were never asked to make them up?

A I beg your pardon?

MR. KATZBERG: Objection to the leading.

Q Were you at any time asked to make up the months that you skipped?

A No, I was not.

Q What was your understanding as to the purpose of making these donations?

MR. PATTISON: Objection. Immaterial.

THE COURT: Yes, it's immaterial at this point.

Q Did you ever attend any dinners, sir?

A Yes, I have.

Q And did you -- and were these political dinners?

A Yes, they were.

Q Did you attend them frequently or infrequently?

A Once a month, twice a month.

Q And did you attend these dinners for business purposes?

A Well, we had a lot of business clients attending.

Q Would you go around and talk to a client, potential clients?

A Yes, we did.

Q Did you go there for the purpose of influencing anyone's election?

A No, we did not.

Q Did you ever bother listening to the speeches

most of the time?

A Not really.

MR. NAFTALIS: I have nothing else.

THE COURT: Any other questions by anyone?

All right, Mr. Katzberg.

CROSS-EXAMINATION

xxx BY MR. KATZBERG:

Q Good afternoon, sir.

Now, at the time that Rex Johnson spoke to you, he was your superior, was he not, sir, in the bank?

A Yes, he was.

Q And prior to the time Mr. Johnson spoke to you, even though you had been at the bank since the beginning of 1971 on the vice presidential level, you were never asked to join the club; is that correct?

A Yes.

Q This was the very first time?

A Yes, sir.

Q Now, you told us that Mr. Johnson didn't specifically tell you you would be getting a salary raise; isn't that true?

A That's true.

Q But isn't it also a fact that in this conversation Mr. Johnson said to you that if you agreed to contribute

$100 a month, you would suffer no economic loss from the contribution?

A I don't remember him saying, if I agree. He said I would not suffer economically or financially.

Q The contributions wouldn't cost you anything; isn't that correct?

A That's right.

Q Isn't it a fact that shortly before you had the conversation with Mr. Johnson, you received a $3500 raise?

A Yes, that's right.

Q March 23, 1973?

A Right.

Q Does that sound about right to you, sir?

A Yes.

Q Isn't it a fact, sir, that you did not begin to make the contributions until May, 1973?

A I don't know the exact month. I would assume it was around May.

Q Let me try to help you out. I want you to look at the contents of Exhibit 149 for identification. Look through them and tell us if you recognize what they contain.

A Yes. They are all checks to political parties.

Q What is the first date of the first check?

A May 15, 1973.

Q Those are the checks that you wrote pursuant to Mr. Chadwick's direction; is that correct, sir?

A Yes, that's right.

MR. KATZBERG: At this time the Government would offer Exhibit 149 in evidence.

MR. BANNIGAN: No objection.

MR. NAFTALIS: No objection.

THE COURT: All right, mark them.

(So marked in evidence.)

xxx

Q Now, sir, you told us that when you went to these dinners, you went there for your bank's business purposes; is that correct?

A That's right.

Q You knew, did younot, that these dinners and these events were fund raisers by the political committee sponsoring them; is that correct?

A Yes.

Q And that they were sponsoring these events in order to raise money; is that correct, sir?

A Yes.

Q And that they raised money in order to support the candidates that they were backing; is that correct?

A That's right.

Q And that was their purpose; isn't that right?

A Yes.

Q And you knew that, didn't you, sir?

A I think everybody knows that.

Q Certainly.

MR. KATZBERG: May I have a moment?

I have nothing further.

THE COURT: Any other questions?

(Continued on next page.)

MR. NAFTALIS: Just two questions.

May we have this marked as the next defense exhibit?

MR. KATZBERG: I have no objection to putting it into evidence.

THE COURT: Are you going to offer it eventually?

MR. NAFTALIS: Yes.

THE COURT: Then mark it. Why go through a ritual when one is not needed.

THE CLERK: Visi cards marked into evidence as defendant's Exhibit MMM.

(So marked.)

REDIRECT EXAMINATION

BY MR. NAFTALIS:

Q Mr. Stehl, just a couple of questions.

You had gotten a raise in March of 1973; is that correct?

A That is right.

Q And your conversation with Mr. Johnson occurred after you had already gotten the raise; is that correct?

A That's right.

Q You never subsequently -- even though Mr. Johnson told you you wouldn't be hurt financially -- got any

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supplemental raises after that?

A No, I did not.

Q Whose money did you use to make those donations?

A My own funds.

MR. NAFTALIS: I have nothing further.

MR. KATZBERG: No further questions.

THE COURT: All right, you may step down. Thank you.

That isthe last witness?

MR. NAFTALIS: Yes, your Honor.

THE COURT: Is that Clifford's case?

MR. NAFTALIS: We have the one witness. We are trying to work out a stipulation.

THE COURT: Subject to that, is that Mr. Clifford's case?

MR. NAFTALIS: Yes, subject to that Mr. Clifford rests.

THE COURT: We will adjourn now until Monday morning for the purpose of respecting the various religious holidays that are upon us. If they be joyous ones, I assume you will enjoy them. If they be religious, I am sure you will partake in the manner of your religion. Be back here Monday, at which time we will proceed with the case. Do not talk about the

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THE COURT: Good morning, has anyone read, seen or heard anything about this case? All in the negative.

MR. COHN: May I proceed?

THE COURT: Yes.

MR. COHN: The defendant Dowd elects to testify in his own behalf.

THE COURT: Have him step forward.

D A V I D J O S E P H D O W D , called as a witness in his own behalf, sworn by the Clerk of the Court, testified as follows:

THE CLERK: State your full name.

THE WITNESS: David Joseph Dowd.

DIRECT EXAMINATION

BY MR. COHN:

Q Mr. Dowd, you are one of the officers in this action?

A Yes.

Q And will you tell the Court and jury what your present occupation is?

A I am not employed.

Q How long has it been since you have not been employed?

A Since September of 1975.

Q Prior to that time what was your occupation?

A Prior to that I was president of the Nassau Trust Company.

Q When did you become the president of the Nassau Trust Company?

A In Septemberof 1972.

Q And prior to your becoming employed at the Nassau Trust Company, what was your previous employment?

A I was employed by the Security National Bank.

Q Tell the jury the period of time that you were employed at the Security National Bank?

A I began in February of 1966 until I resigned on August 31st, 1972.

Q Now, going back to the Nassau Trust Company, what was the business of that bank?

A It was a small commercial bank.

Q When you went to work for the Nassau Trust Company in September of 1972, how many branches did that bank have?

A We had four branches.

Q Do you know what their assets were?

A They were about 50 some-odd million.

Q When you left the Security National Bank in September of 1972, how many branches did the Security National Bank have?

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A The Nassau Trust Company?

Q No, the Security National Bank. How many branches did they have when you left?

A When I joined it in 1966 it had about 30 some-odd branches and when I left we had close to a hundred.

Q When you left the Security National Bank, what were its assets?

A When I left the Security National Bank our assets were over a billion and a half.

Q And did the Nassau Trust Company compete with the Security National Bank when you were president of the Nassau Trust Company?

A When we had similar branches.

Q What was the last date that you worked for the Security National Bank?

A September 22, 1972.

Q And from that date, September 22nd of 1972 to today, have you ever set foot in any branch or headquarters or office of the Security National Bank?

A No, I haven't.

Q Now Mr. Dowd, how old are you now?

A 51.

Q When and where were you born?

A I was born in Long Island City.

Q And what was your birthday?

A June 6, 1924.

Q Are you married?

A Yes, I am.

Q Do you have any children?

A Four children.

Q Where were you educated, sir?

A I went to P.S. 33 in Queens and then Bayside High School and then New York University.

Q When did you graduate Bayside High School?

A 1942.

Q How old were you at that time?

A 18.

Q What if anything did you do when you graduated from high school?

A I enlisted in the United States Marine Corps.

Q Was this during World War II?

A Yes.

Q Did you receive any training?

A Yes.

Q Where was that?

A Paris Island.

Q Did you then serve overseas in World War II with the United States Marines?

A As soon as I finished Paris Island I spent the rest of the two years overseas.

Q What marine operations did you participate in?

A Guadalcanal, Bogganville, Okinawa, and Guam.

Q When were you discharged from the United States Marine Corps?

A In October of 1945.

Q And was this an honorable discharge?

A Yes.

Q What was your rank when you were discharged from the marines?

A Sergeant.

Q And when you returned home from the marines, what did you do?

A AI decided to go to college.

Q Did you go to college, sir?

A Yes.

Q What college did you go to?

A New York University.

Q Any particular school of New York University?

A The School of Business.

Q And how did you finance that, sir?

A Through the GI BIll.

Q And when did you start college?

A In February of 1949 -- I am sorry, in February of 1946.

Q When did you graduate?

A June of 1949.

Q Did you complete a full four year course?

A Yes.

Q And did you do this in three and a half years?

A Yes.

Q Did you receive a degree on your graduation from New York University?

A Yes, I received a Bachelor of Science and Business Administration.

Q That was in June of 1949.

What did you do after you graduated college?

A I went to work for a small finance company until 1951.

Q What kind of work did you do there?

A Administrative work.

Q And when was the last time you worked for this small finance company?

A I left in early 1951. I was called back during the Korean War into the marines.

Q Were you in the Marine Corps Reserve during the period from 1946 to 1951?

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A Yes.

Q And during the Korean War you were recalled to the Marines?

A Yes.

Q How long did you serve on your recall?

A Until May of 1952.

Q Were you then discharged?

A Yes.

Q Honorable discharge?

A Yes.

Q What was your rank at the time you were discharged at this time?

A Technical sergeant.

Q And have you had any other military service since that time?

A No, sir.

Q After you left the marine corps in 1952, did you find any employment, sir?

A I went to work for the Irving Trust Company.

Q And this is a bank in New York City?

A Yes.

Q And when were you first employed by the Irving Trust Company?

A I believe it was in June of 1952.

Q And can you tell us in what capacity you were employed?

A I was employed as a trainee.

Q And can you explain what that job entailed, being a trainee?

A They had a program where they took college graduates and they trained them in banking.

Q And you participated in that program?

A Yes.

Q How long did you stay with the Irving Trust Company after June of 1952 when you were first employed there?

A Until 1964.

Q That was some twelve years?

A Yes.

Q Incidentally, when you first went to work for the Irving Trust Company, what salary were you employed at?

A $65 a week.

Q During this twelve year period, from time to time did you receive promotions?

A Yes, sir.

Q Did you ever become an officer of the Irving Trust Company?

A Yes.

Q Can you recall when it was when you first

became an officer?

A I became an officer in 1957.

Q What was that office?

A Assistant secretary.

Q Did you receive any promotions after that?

A I was promoted to assistant vice president five years after that, that would have been 1962.

Q 1962?

A Right.

Q Did you receive any promotion after that?

A No, sir.

Q Now, what were the circumstances involved in your leaving the Irving Trust Company in 1964?

A I had heard that Arthur Roth was opening Franklin National Bank offices in New York City. I thought I could help.

Q Identify Mr. Roth for the Court and jury.

A Arthur Roth was the chairman of the Franklin National Bank.

Q At that time?

A At that time.

Q And where did you find employment after you left the Irving Trust Company?

A I called on Mr. Clifford and we had lunch

together. He hired me to join him at Franklin. That must have been in June of 1964.

Q And do you know what Mr. Clifford's position with the Franklin National Bank was in June of 1964 when he hired you?

A At that time he was executive vice president, he was a director, chief lending officer and was president of their metropolitan divisions.

Q When was it that you joined the FRanklin National Bank?

A In June of 1964.

Q How long did you stay there?

A Until February of 1966.

Q While you were at the Franklin National Bank, did you hold any office?

A Yes, I joined as vice president -- as assistant vice president and I was promoted to vice president.

Q While you were at the Franklin National Bank, what were your duties?

A I have always been a commercial lending officer and I assisted Mr. Clifford in commercial lending.

Q And what did you do as Mr. Clifford's assistant?

A I helped in handling any loan requests that

came in, matters that had to be looked into, dealing with customers.

Q And during the time that you were at the Franklin National Bank, was there a practice of your reporting to Mr. Clifford on matters?

A Yes, I worked directly for him.

Q How frequently did you report to Mr. Clifford?

A Probably on a daily basis.

Q And did there come a time that Mr. Clifford left the Franklin National Bank?

A Yes, he left at the end of 1965.

Q And did there come a time when you left the Franklin National Bank?

A Yes, I left in I guess the end of January of 1966.

Q Will you tell the Court and jury what the circumstances were involving your leaving the Franklin National Bank at that time?

A Mr. Clifford had decided to leave the Franklin National Bank and join the Security National Bank as president. He needed some help. He asked me if I would come and I said I would.

Q And when for the first time were you employed at the Security National Bank?

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A February of 1966.

Q And how long did you stay there, sir?

A Until 1972.

Q Now, apart from your employment at these various banks, at the end of the Korean War did you also engage in any social or civic activities?

A Yes, while I was at the Security National Bank I had the opportunity to get involved in a number of programs on Long Island.

Q Tell the Court and jury in your own words what civic-social activities you participated in?

A I became active in scouting and rose to become treasurer of the Suffolk Council and eventually president of the council and I have been active in scouting, I guess, about twelve years. I was able to assist the American Cancer Society, United Fund, the American Red Cross, and I was active in the Bankers' Association on Long Island. I was president of the Suffolk County Bankers' Association, director of the Long Island Banker's Association, and I got involved in a number of trade associations. I was a director of the Long Island Association and the Empire State Chamber of Commerce.

Q Did you ever become involved in any educational areas?

A Yes, I assisted the State University at Stony Brook and became director of their foundation.

Q Now, when you went to work for the Security National Bank in 1966, what was your office, if any?

A My physical office?

Q Did you have any job title?

A I came as senior vice president, but was basically assistant to Mr. Clifford.

Q Were you ever promoted from your position of senior vice president, during all the time that you were at the SEcurity National Bank?

A No, sir.

Q When you went to work for Security National Bank, what were your duties? Explain to the Court and jury what you did particularly in the years 1966 and 1967.

A I came to the Security National Bank as Mr. Clifford's assistant and primarily as his lending assistant, so in the early days I helped him again as I did before on loan problems. As we began to grow I helped to form a commercial lending division and got that off the ground by 1967.

Q Now, will you tell the Court and jury whether or not throughout the entire period from 1966 to 1972, whether or not you were ever a director of the Security

National Bank?

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A No, sir.

Q And throughout this period of time, did you ever attend a board of directors meeting?

A No, I never was called on to attend a meeting.

Q Were you ever an executive officer during the time that you were employed by the Security National Bank?

A No, sir.

Q Is the job of executive vice president that of an executive officer?

A Some portions of the job probably would be.

Q Now, were you ever a stockholder of the bank during the time that you were employed at the Security National Bank?

A Yes.

Q And tell the Court and jury how much stock you held or the maximum amount of stock you held at any one time.

A By the time I left I had accumulated about 180 shares.

Q Did you acquire that at one time or over a period of time?

A No sir, over the six years that I was there.

Q And did you buy this out of your own money, sir?

A Yes, sir.

Q In what units did you buy this stock?

A Probably in 5 or 10 share lots.

Q During the six years that you were with the Security National Bank, did you report personally to Mr. Clifford with any regularity?

A Yes, in the early days probably on a daily basis.

Q What period are you referring to?

A During the first two years.

Q That would be 1966 and 1967?

A Right.

Q Thereafter did the practice change?

A It changed only in that I was given broader responsibilities and I reported to him on an assignment basis, although we were in touch on the telephone I am sure five or ten times a week.

Q Let me take you back to the political contributions program, particularly when you were at the Franklin National Bank, before you went to work at the Security National Bank.

Were you ever involved with any political contributions system there?

A No, sir.

Q When you were at the Irving Trust Company,

were you ever involved in any political contributions system there?

A No, sir.

Q During the year 1966 and prior to the fall of 1967, when you were at the Security National Bank, were you ever involved with any political contributions system?

A No, sir.

Q During the time that there was a system in the Security National Bank that we have been told about, that has been called the Pauline Reddy Fund, were you ever involved at all with the administration of that fund?

A No, sir.

Q Did there ever come a time that you made a contribution to the Pauline Reddy Fund?

A Yes, early in 1967 a group of the officers were asked if we'd buy tickets to one or two of the political functions.

Q And did you buy any of those tickets or make a contribution?

A Yes, I bought one $100 ticket.

MR. COHN: May I ask Mr. Katzberg to give me the records in evidence involving the Pauline Reddy Fund? May I have that, please?

(Documents handed to counsel.)

Q Mr. Dowd, to save time permit me to pinpoint an entry.

Referring now to a sheet in the Pauline Reddy records, that has been marked Exhibit 169 in evidence, will you look at the sheet entitled "Special Account D Funds Received from Officers"and tell me, sir, whether there is any entry on that ledger sheet that you recognize as applying to you, sir?

A Yes, there is one entry for $100 on March 16th, 1967.

Q Is that the fund that you told us that you had contributed to to pay the Pauline Reddy Fund?

A I believe so.

Q And do you recognize whether or not any other officers of the bank made contributions that are listed on that page of the ledger?

A Mr. Honan, Mr.Powell and Mr. McCabe.

Q Who was Mr. Honan?

A Senior vice president in charge of lending.

Q Was he a senior vice president at the bank when you were hired by the Security National Bank?

A Yes, sir.

Q Was he superior to you?

A He was senior to me.

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Q Senior to you?

A Yes.

Q And Mr. Powell, is that the defendant in this lawsuit?

A Yes.

Q And identify for us John W. McCabe.

A He was senior vice president in charge of the branches.

Q Was he an officer who was senior to you?

A Yes, senior in time.

MR. COHN: May I just show this to the jury, without passing it around?

THE COURT: Yes.

MMR. COHN: This is a ledger sheet that comes from the Pauline Reddy Fund. It's marked "Special Account D - Funds received from officers."

I invite your attention to the fact that on March 10, 1967, Mr. Honan contributed $100; on March 15, 1967, Mr. Powell contributed $100; on March 16, 1967, Mr. Dowd contributed $100; and Mr. McCabe contributed $70 and the total shows $370.

Q Now Mr. Dowd, how did it come about that you contributed $100 to the Paulina Reddy Fund?

a I think Mr. Maass said there was an affair that

we -- that the senior officers should attend, but the directors did not have -- the directors' fund did not have enough money to purchase the tickets and would we buy the tickets ourselves.

Q By the way, who wa. Mr. Maass --

A Mr. Maass --

Q That you are talking about?

A -- he was chairman of the board and chief executive officer.

Q Was he so in 1967?

A Yes.

Q Throughout the entire year?

A Yes.

Q How long did he stay on at the SEcurity National Bank as chairman of the board and chief executive officer?

A I believe he retired in 1969.

Q So that he held that title and did he perform those functions to your knowledge throughout 1968?

A Yes.

Q And until 1969, when he retired?

A Yes, I believe so.

Q By the way, with regard to the chain of command in the bank, who was the top officer of the Security

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National Bank in 1967?

A Mr. Maass.

Q And Mr. Clifford was the president in that year?

A He was president and chief administrative officer.

Q Was Mr. Maass senior and superior to Mr. Clifford in 1967?

A Mr. Maass was the boss.

MR. COHN: Mr. Maass was the boss.

May I have this group of papers marked for identification?

THE CLERK: Several page document marked for identification as Defendant Dowd's Exhibit NNN.

(So marked.)

Q Mr. Dowd, I show you this exhibit, NNN marked for identification, and I ask you whether you recognize it?

A Yes, they are the by-laws of the Security National Bank.

Q And were those the by-laws that were in effect at the Security National Bank during the years 1967 and 1968?

A I believe so.

MR. COHN: If your Honor pleases, I offer this document into evidence.

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MR. KATZBERG: May I see it?

(Shown to counsel.)

THE COURT: Mark it.

THE CLERK: Defendant's Dowd's Exhibit NNN, received in evidence.

(So marked.)

Q Mr. Dowd, were these the by-laws that regulated the affairs of the Security National Bank in 1967 and 1968?

A To the best of my knowledge.

MR. COHN: May I now read Section 3.5 to the jury?

THE COURT: Yes.

MR. COHN: Ladies and gentlemen of the jury, these are the by-laws as Mr. Dowd told you. I would now like to read to you Section 3.5:

"The chairman of the board shall preside at a meeting of the board of directors. He shall be the chief executive officer of the association and shall be an ex-officio member of all committees of the board of directors, except the examining committee. He also shall have and perform such other duties as may be assigned to him from time to time by the board of directors. In the absence of the chairman of the board the president shall preside at all such meetings."

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BY MR. COHN:

Q Let me take you back now to the time that Mr. Maass came to you and asked you to contribute $100 to the Pauline Reddy Fund.

At that time, sir, did you know that this was the fund into which the various directors of the bank had previously been making contributions?

MR. PATTISON: I object, your Honor.

MR. COHN: As to his knowledge.

THE COURT: I will allow it.

A No, sir.

Q You did not know that?

A No.

Q When Mr. Maass came to you and asked you to make a contribution of $100, did you have a conversation with him?

A He just asked me could I buy a ticket to the affair that was coming up out of my own pocket and I said that I would.

Q Were you ever reimbursed for that hundred dollar contribution?

A No, sir.

Q Did you attend the affair for which you bought the ticket?

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A I am pretty sure that I did.

Q WAs this an affair involving a political meeting or a political group?

A Yes, sir.

Q Incidentally, prior to the time that you attended the affair, did you ever while you were at the Irving Trust Company or the Security National Bank or the Franklin National Bank, attend any political functions?

A No sir, I did not.

Q Did you attend any dinners sponsored by any political group?

A No sir, this was the first time.

Q You didn't go to any golf outings or clam bakes sponsored by a political group?

A Never have.

Q Were you ever involved in any way with the solicitation of contributions from the directors that contributed to the Pauline Reddy Fund?

A No, sir.

Q Now, prior to the fall of 1967 except for this hundred dollar contribution that was solicited from you by Mr. Maass, did you have any knowledge whatsoever of the political contributions system then in effect at the Security National Bank?

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A No, sir.

Q Did you ever acquire any knowledge as to how political contributions were made at the Franklin National Bank, while you were employed there?

A No, sir.

Q At the Irving Trust Company while you were employed there?

A No, sir.

Q Now, when for the first time did you ever have a conversation with anyone on the subject of political contributions?

A I believe in the fall of 1967.

Q Can you pinpoint the month, sir?

A Probably September or October.

Q Of 1967?

A Yes.

Q With whom did you have this conversation?

A With Mr. Clifford.

Q And do you recall where the conversation took place?

A In his office.

Q And was anyone present other than Mr. Clifford and yourself?

A I believe his secretary was present.

Q How did you come to be in his office at that time?

A I believe he asked me to come in.

(Continued next page.)

Q Now, tell the court and jury what yourconversation was with Clifford at that time on the subject of political contributions?

A Mr. Clifford said that he was having -- he and Mr.Maass were having a problem with the Board of Directors, that they had been buying the tickets of these political dinners, but that several of the directors had been complaining that they were not paid enough and he felt the bank should look into alternative ways of buying tickets to these affairs. Mr. Clifford said that it was his experience and other banks, especially in the larger banks, that they attended these dinners but he was sure that they didn't ask their Directors for money. He was also sure that they didn't attend those events unless they were on a perfectly legal and proper basis. So he asked me if I would speak to other bankers and find out how they handled this problem. Hesaid he was going to speak to Mr.Shea, I believe, about it.

Q Now, when you had this conversation with Mr. Clifford, did you have any knowledge or prior experience whatsoever in this area of political contributions?

A No, sir.

Q Then after you had this conversation with Mr. Clifford, what if anything did you do?

A I realized that I didn't have the background and

I believe Mr.Clifford had told me if I had any questions to talk to Mr. Maass who handled the matter at the bank. So I went into Mr. Maass' office and I asked if he would explain to me how this program worked.

Q What did Mr. Maass say to you?

A Mr. Maass talked about how the bank operated. He said we really had three markets that we served. We had a good branch system and we had a lot of individual and personal checking accounts.

We also had the corporate market. That is what I had been engaged in primarily.

We also had a third market, which was municipalities. He explained that just as corporations needed money from time to time, as they needed checking accounts and savings accounts, that municipalities, needed places to put their money and also needed to borrow money from time to time and that they also needed to obtain interest on their excess monies that they had and he said it took a lot of time and effort to service the municipalities, but he felt it was a profitable business and he suggested that I took to several of the other officers in the bank who had more direct experience than he. He said that one distinction between the municipal business and the corporate business is that the politicians wanted us to attend the dinners and he said attendance at the dinners, in

his experience was a prime requirement to keep those deposits. He said it was a very competitive business. Wehad all the large banks and the Long Island banks, active in it and they expected you to be there when they ran these events.

He said that he had handled the matter by asking the Directors to contribute a $100.00 a month out of their directors fee and he had set this program up apparently a while ago and what he did after each Board meeting he would collect their fees or have his secretary do it and then he would give them to his secretary who would deposit them in a special account that they kept, the Pauline Reddy account, and he told me on the other side that the request for contributions would basically come in from the branches and the branch manager would look at it and if he felt it was worthwhile to attend, he would indicate it on the request that he thought we should buy a ticket or a table and the manager would forward it to Mr. Maass. If Mr.Maass concurred that it was to the best interest of the bank, then he would ask Ms. Reddy to issue the check, obtain the ticket, and forward it to the branch manager.

He said that several of the directors had complained about this and he said he had increased -- it appeared they objected because they were not paid enough in the way of fees. He said that he had increased the fees at one point and it was not enough and he approached Mr. Clifford to see if there was

not an alternative way of doing it. After this conversation I spoke to two of the knowledgeable officers of the bank in this area, Mr. McCabe who ran the branch system for the Security National Bank, and I spoketo Mr. Charles Dickerson who ran the branches on the east end of Long Island, and they both concurred in Mr. Maass' view that this was --

MR. PATTISON: I object at this time. This is clearly all hearsay.

THE COURT: I will sustain the objection at this time.

MR. COHN: I am sorry?

THE COURT: At this time I will sustain the objection.

Q Was Mr. McCabe the same gentleman that contributed a $100 to the Pauline Reddy Fund?

A Yes.

Q And you say that he was the officer in charge of the various branches?

A Yes.

Q And did you discuss with Mr. McCabe the thought by which requests had come in for political contributions to the Security National Bank?

MR. PATTISON: Objection.

THE COURT: I'll allow it.

A He simply said that requests came from the branch managers and if they felt it was worthwhile, they forwarded the request to Mr. Maass and if he thought it was worthwhile, he had Ms. Reddy buy the ticket or tickets.

Q Did you also speak to Mr. Dickerson about this subject?

A Yes.

Q And tell us again who Mr. Dickerson was?

A Mr. Charles Dickerson was the Vice President in charge of the Eastern branches for Long Island.

Q Did he have a conversation with you on this subject?

A Yes.

Q What did he say to you and what did you say to him?

MR. PATTISON: Same objection.

THE COURT: It is hearsay.

MR.COHN:If Your Honor pleases, I do not want to pursue the point, but would Your Honor permit me to give the background to the jury?

THE COURT: I will allow it for that reason only.

MR. COHN: Thank you.

Q What we are trying to do is this --

MR. KATZBERG: Objection.

THE COURT: Yes.

MR. COHN: Withdrawn.

Q Tell us what Mr. Dickerson told you in your conversation concerning the subject of the method used at that time for the purpose of changing these requests for political contributions?

A I asked Mr. Dickerson why we buy these tickets and he said "we buy them because we have a lot of municipal deposits."

He said that he understood that the bank had close to a one hundred million dollars in deposits and that we -- that when the politicians wanted us to attend a dinner, it was appropriate to go. If you didn't go you were missed and you simply had to be there and that it was good business as far as he was concerned.

Q Then what if anything did you do after you had this conversation with Mr. Dickerson and Mr. McCabe?

A I recognized the next thing I had to do was carry out Mr. Clifford's assignment. I called several different banks and asked them how their corporate customers bought tickets to attend these political affairs and they indicated to me that their method -- that the most prevelant method seemed to be that the senior officers of the bank were paid sufficient salaries that when there was a request to attend

a dinner, they simply bought the tickets out of their own pockets. The other prevalent method was where the other group of officers would contribute to this fund and whenever there was a need to attend, the tickets would be bought out of that fund.

(continued next page)

Q And that at that time -- let us fix the time again.

Are we still talking about September, 1967?

A That would be September of 1967.

Q Now, at that time, Mr.Dowd, did you have any knowledge with respect to the laws stipulated in political contributions by banks?

A I gathered from Mr.Maass' comments that the banks could not buy tickets themselves, but that I had no familiarity with the law beyond that.

Q Had you ever seen Section 610 of Title 18 United States Code at that time?

A Never heard of it.

Q Had anybody even shown you that law?

A No. I don't even think in the bank we were aware of it.

Q Had you ever talked at that time -- withdrawn.

Had you ever talked at that time --

Why did you go to Mr. McCabe and Mr. Dickerson and Mr. Maass after you spoke to Mr. Clifford.

MR. KATZBERG: Objection.

THE COURT: Rephrase your question.

Ask him did you go?

Q You went -- what was your purpose of going to

Mr. Maass and Mr. Dickerson and Mr. McCabe at that time?

MR. KATZBERG: Same objection.

MR. COHN: This whole case involves knowledge, your Honor.

THE COURT: It is also whether or not there was a conspiracy.

I will allow the question.

MR. COHN: Thank you, Your Honor.

THE WITNESS: I simply did not have enough background in this area that myself.

I felt before I did any investigation like this I ought to find out why do we attend dinners at all and the gentleman I spoke to gave me the background, so when I called the other banks, I felt more comfortable in what I was talking about.

Q After you had these conversations that you have told us about, what if anything did you then do?

A I realized that it might be possible to ask several of the senior officers if they would buy the tickets, since directors did not, perhaps we could do it.

I spoke to several of my associates and we kicked around the subject of whether we could buy tickets and we agreed that if we would help the bank out we would, but we all had children and mortgages and did not feel that we can do much more

than buy an occasional ticket.

Q Did you ever talk to Mr. Clifford after that first conversation with him on the subject?

A Yes. After this I went back to Mr. Clifford and briefed him on what I learned from the other banks.

Mr. Clifford said at that time that he and Mr. Maass decided they were not going to ask the directors to buy tickets any further.

As far as he was concerned we could just forget about it.

I said I did not think that was the case because Senior officers, the ones that I spoke to, they felt we had 100 million dollars at risk in terms of deposits andcould not afford not to attend these events; that we could be hurt.

I said that I had spoken to several of the senior officers also as to whether we could help out and said I felt from time to time if he and Mr. Maass needed us we would buy a ticket but told him we did not have the money to buy tickets in any quantities and could not replace the directors.

Q What did Mr. Clifford say?

A He said he spoke to Mr. Shea about it and Mr. Shea said it was a legal matter and Mr. Shea had assigned Mr. DeGennaro to look into it, and to wait a couple of days and call Mr. DeGennaro.

Q This is September or October of 1967?

A All within a few days of my first conversation.

Q You knew Mr. Shea was General Counsel for the bank at that time?

A Yes.

Q Did you know who Mr. DeGennaro was?

A Yes, a partner and associate of Mr. Shea.

Q Prior to September-October of 1967, did you have any occasion to talk to Mr. DeGenraro?

A Yes. I worked on several loan propositions with him and he got to know -- well we got to know each other somewhat.

Q Did you consult with Mr. DeGennaro prior to this time on legal matters affecting the bank?

A Affecting loans.

Q Was that your area of administration at the time? In the area of loans?

A Yes. Strictly commercial lending.

Q Prior to October 1967?

A Yes.

Q Did there come a time when you spoke to Mr. DeGennaro?

A Yes, a day or two later I called him and asked him if he had been briefed by Mr. Shea and he said yes, and he

would appreciate my briefing him on what problems seemed to be from the bank's view.

I explained the problem that Mr. Maass and Mr. Clifford had in terms of the directors not wanting to buy tickets any further and we had substantial amount of deposits, one hundred million dollars and said that it was the consensus of the officers that we had to buy the tickets.

I told him what other banks had done and what their corporate customers had done to handle the problem and he appreciated it.

He said he only had looked into it preliminarily, into the problem, and said the bank could not make political contributions.

I said the problem is the bank wants to buy tickets and he said that he was told to look into the political contributions.

Q Did he tell you who asked him to look into it?

A He said Mr. Shea.

Mr. DeGennaro said the bank cannot make political contributions.

I said that seemed to fly in the face of other banks and since they were attending there must be a way the bank can buy tickets. He said he would look into it and get back to me.

Q What did you do after that first conversation with Mr. DeGennaro?

A I just told Mr. Clifford that I spoke to Mr. DeGennaro and that he was looking into the matter.

Q Did youspeak to Mr. DeGennaro again?

A Yes. He called me back a few days after that and he said that he had looked into the matter and had some observations. First it is not a matter of buying tickets, he said.

While from our standpoint we wanted to attend the events and from his standpoint had to be political contributions, if the dollars went to the political organizations and therefore it was a question of whether the bank could make political contributions.

He said the bank could not make political contributions.

I said how do they attend these dinners?

He said, the way to handle it is the way you told me the individual officers of the banks can do anything they want and the bank not only cannot buy tickets, but cannot reimburse any officers for any expenses for these dinners.

He said the officers of the bank could purchase the tickets out of their own pocket and voluntarily.

He said if it was strictly voluntary and no coercion, if they wanted to do it on their own, it was fine. I said we can ask the officers to substitute for the directors.

I spoke to several officers and we were not paid enough to take over active rolls that the directors had and he thought about that and he said the matter of what we pay ourofficers is a matter for the bank to decide. The bank can pay its employeesany salaries that is reasonable.

I said, do you mean we can raise the salaries of the officers $100 per month to make the contributions?

He said, you can do that as long as the money is the property of the officers.

He said you cannot take the money from the bank. If you want to give a salary increase permanently, it goes into their pocket and you can ask them to make political contributions on a voluntary basis, and they are free to do without coercion and that would be perfectly proper.

(continued next page)

Clifford Miele:cp 2am? 2

Q Prior to that time, did you know the directors had been contributing one hundred dollars a month to the Pauline Reddy Fund?

A Yes.

Q Had you imparted that information to Mr. DeGenaro?

A Yes. I filled him in on that in my first conversation with him.

Q So Mr. DeGenaro knew from you about the one hundred dollars a month contribution from the directors?

A Yes.

I explained how the requests came in, how they were collected and how they were put in the Reddy account.

Q Did you know that Mr. Shea was a director of the Security National Bank?

A Yes.

Q Did it come to your knowledge that Mr. Shea contributed one hundred dollars a month to the Reddy Fund?

A No. I knew all directors contributed.

Q At that time, in October of 1967, did you have any knowledge as to what the large New York City banks were paying officers who held the equivalent positions as to those of the Security National Bank?

A Their salaries were probably double ours for the equivalent officer status.

Q Did you discuss this with Mr. DeGenaro?

A I mentioned to him we didn't get paid the salaries that the New York banks had as well as the fact that we all had mortgages and children.

Q After the second conversation with Mr. DeGenaro, what did you do?

A I went to Mr. Clifford and told that -- well, I outlined Mr. DeGenaro's conversation to him and said it was a matter of political contributions, not buying tickets, and the bank couldn't make contributions and couldn't reimburse any officers, making contributions that the officers could buy the tickets on their own is strictly voluntary without coercion.

I told him I understand he and Mr. Maass both bought these tickets out of their own pocket, but the rest of the officers wouldn't be able to do it financially and Mr. DeGenaro said the officers could receive any raises the bank gave them and that it had to be strictly their money. The money belonged to the officers and if the officers stopped making contributions and did not want to start, it was still his raise and we could not take it back if he decided not to contribute.

Mr. Clifford said -- I explained if we confined a group of volunteer officers to take over the duties the directors had of purchasing these tickets and he said that sounds all right

but you speak to Mr. Maass. I went to Mr. Maass' office and explained to him what I heard from Mr. DeGennaro and Mr. Maass said he would think about it.

Q When you reported to Mr. Clifford after the second conversation you had with Mr. DeGennaro, did you report accurately to Mr. Clifford what Mr. DeGennaro told you?

A Yes, I am positive I was accurate.

Q Is the same true when you reported to Mr. Maass?

A Yes.

Q Did you lie to Mr. Clifford or Mr. Maass when you reported to them about your conversation with Mr. DeGennaro?

A No.

Q Did you embellish this advice?

A I was careful and factual as I usually am.

Q Did you misrepresent Mr. DeGennaro's advice to you to Mr. Maass or Mr. Clifford?

A No.

Q Did you withhold anything that Mr. DeGennaro said to you when you presented this to Mr. Clifford and Mr. Maass?

A No.

Q What happened after these conversations with Mr. Clifford and Mr. Maass?

A The next day Mr. Clifford called me to Mr. Maass's office and they asked me to go over the suggested program again

and I did.

I explained what Mr. DeGennaro said and the guidelines he would give and Mr. Maass and Mr. Clifford said they concurred in the program and let's go ahead with it if we can find enough officers willing to contribute on a voluntary basis.

Mr. Maass then pulled out the officers' directory and started to go down the officers' names.

I don't know that Mr. Clifford stayed there, but he said he didn't --

Q Let me interrupt you for a moment.

At this point, in 1967, how long had you been employed at the Security National Bank?

A A little short of two years.

Q How long, to your knowledge, had Mr. Clifford been employed at the Security National Bank?

A The same period of time.

Q At that time can you tell us how many officers there were in the Security National Bank, referring to the fall of 1967?

A I think we had about sixty officers.

Q Did you know all of those sixty officers, sir?

A No.

Q You told us there came a time when Mr. Maass had taken a list of officers' directory?

A Right.

Q Did that have listed all the officers of Security National Bank?

A Yes.

Q What happened after that?

A He went down the list and asked if I knew some of the people.

The ones I knew I indicated, and he called Mr. Powell in and asked if he knew the names of officers and he explained the intended program to Mr. Powell.

Q Was anybody else called into the meeting at that time?

A I believe Mr. McCabe and Mr. Honan.

Q Were they old-time officers of the bank?

A Yes.

Mr. McCabe was around quite a few years, and Mr. Honan a few years.

Q All of these other persons were in the bank much longer than you?

A Yes.

Q What happened after that?

A We came up with a list of names of officers we knew that we felt could be called to ask to make the voluntary contributions. We had a list perhaps of 20 or 25 officers.

Mr. Maasssaid we really only needed one dozen, but since we had additional requests from time to time if we had fifteen names he would feel satisfied.

When we finished that, Mr. Maass reminded me -- before that, we'd discussed whether we would have to give increases.

Q Before that.

Let us go back to the discussion of officers' names.

What criterion was used among the people present in that room for the selection of officers' names? What standard did you use?

A Mr. DeGennaro had suggested it be officers who would have the best interests of the bank. He said he felt it should be officers who wanted to do it on their own and therefore I mentioned to Mr. Clifford and Mr. Maass and the consensus was we should only ask those who were willing and have the best interests of the bank, in mind, senior officers who would stick around for a while and not retire or resign.

Q Were there officers named, proposed at that meeting, who were rejected by any of the persons present?

A Yes.

Q What were the grounds for rejection?

A The other executive vice-president was Mr. VanSand and they indicated that he might be retiring early.

Q As you went down the list, were there any other

officers where someone said let's take him or not take him?

A I am sure there were.

Q Any reasons for that?

A Some were approaching retirement and some were too junior and others were unsatisfactory.

THE COURT: All right.

We will take a recess at this point.

Do not discuss the case with one another or anyone not on the jury.

(At this time the jury withdrew from the courtroom at 11:40 a.m.)

(Continued next page)

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THE COURT: Mr. Naftalis, you are not going to bring coffee in the Courtroom. That's wrong.

MR. NAFTALIS: Your Honor, I am not.

THE COURT: You shouldn't take food or anything in the Courtroom. It's not the place for it.

All right. Bring the Jury in.

(Jury present.)

DIRECT EXAMINZTION

BY MR. COHN (Cont'd):

Q Before we continue, what if anything else happened at that meeting?

In September or October of 1967, how oled was Mr. Maass, to your knowledge?

A I think he was about 67, past the retirement age.

Q Was he functioning at the bank at that time on a full time basis?

A Yes. He was responsible for the investment portfolio full time.

Q Reporting to the bank on a daily basis?

A He was in every day. While Mr. Clifford carried the responsibility day to day of running the bank and moving it forward, Mr. Maass was in every day.

I don't think he was out one day for illness or any reason. There is no question, Mr. Maass was the boss.

Q Let's go back to the meeting where a list of officers had been produced and you were discussing officers who could be invited to participate.

As I recall your testimony or the last thing you told us about is you were going down a list of officers and I think I asked you about what criteria was being used to select the officers.

Did there come a time at that meeting where some 15 or 10 names were finally agreed upon?

A No, we had a list of 20 to 25 that were agreed upon as potential volunteers for the club.

Q Was anything said at that meeting concerning salaries?

A Yes.

Q Tell us exactly what was said at that meeting concerning salaries?

A Mr. Maass and Mr. Clifford said they didn't need salary increases, they were paid enough and they would continue. They were doing it before making the $100 a month contributions. They were making the contributions out of their own pockets but they could

understand the rest of the officers couldn't do it out of their own pockets.

The discussion came up as to how much of a raise. I suggested if we are going to ask the officers to substitute for the directors to contribute $1,200 a year and we'd have to increase the officers salaries $1,200 a year.

MR. KATZBERG: Who was present at the meeting?

THE WITNESS: I know myself, Mr. Powell and Mr. Maass, and I believe Mr. McCabe and Mr. Honan were there.

Then someone raised the question of if you gave someone a $1,200 increase, there was income taxes and a figure was arrived that would enable an officer to contribute up to $1,200 without being hurt, without having to hurt him financially, because we didn't have people overpaid.

After that, Mr. Clifford, before he left, told Mr. Maass to make sure I reviewed this again with Mr. DeGenaro so that Mr. Maass asked me to go back to Mr. DeGenaro and review the program we proposed with him for his final clearance.

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BY MR. COHN:

Q Did you do that?

A Yes.

Q Did you have another conversation with Mr. DeGenaro at this time?

A Immediately after leaving the chairman's office, yes.

Q This is the third conversation you had with him on the subject of political contributions?

A Yes.

Q Tell us what the conversation was on this third occasion, when you spoke to him?

A I told him I discussed his points with Mr. Clifford and Mr. Maass and they agreed wa'd ask the officers, see if we can get a group of officers to take over the function of the directors in buying the tickets tothe political event and came up with a list of 20 or 25 officers that we intended to approach to voluntarily contribute $100 a month and increase their salaries $1,700 a year to enable them to make contrbituions without cost to themselves.

I think that covered the program we had proposed. He said he had been thinking about it and had some objections.

5 Dowd - direct

He said it has to be voluntary. He said, "I don't think you should have Mr. Maass or Clifford to ask people."

I said, "If I ask, there will be a difference in title."

He said, "The difference between the chief executive or administrator is a large one. I would prefer that the rank be close, so there is no inference of coercion. Please make sure that you ask whether they want to join on their own. Ask them if they want tojoin the club. Then, if you want to, tell them about the increase.

"The key is it has to be voluntary."

On the raise, he said, "If you give a fellow $1,700, it has to be his money. All the raise can do is put him in a financial position to make the contributions."

He said, "I don't want the money to automatically be taken out of anyone's account. He gets a permanent raise and I want to see it gets credited to the officer's checking account."

All employees get paid by having the net proceeds credited to their personal checking accounts.

He said, I'd like to make sure if they

get the increase, it's credited to their checking account so they can spend it as they see fit.

"If they tell you tomorrow they will not contribute, you couldn't take the raise back. I don't want you taking the money out of their checking account and putting it in the officers' fund. They should issue their own check or pay this cash each time they want to contribute.

"When they get paid, they can do this and bring it down to Pauline Reddy."

He asked, "How were we going to handle the matter of the payments?"

I said, "The same way, officers will make out the check or cash to Pualine. She deposited in her account and when requests for tickets came, they'd be forwarded from the officer to Mr. Maass. He would approve and have Miss Reddy issue the checks."

Q The third conversation you had with Mr. DeGenaro, is there any doubt in your mind that you told him about the $1,700 raise?

A No.

Q Is there any doubt that you told Mr. DeGenaro that $500 would be retained by the officers for income tax?

7 A 2044 Dowd - direct

A I am positive I did. He said, "You can pay them $1,700, $1,200 or $3,000."

Q Did you tell him at that time, the officers, to contribute $100 a month for these contributions or for the purchase of these tickets?

A No, sir. He said he wanted them to issue their checks.

Q Did Mr. DeGenaro object in any way to the plan you have told us that you outline in that conversation?

A No, sir. He said this was purely legal as long as we followed the guidelines.

Q Did you tell Mr. DeGenaro that this would be the plan the bank would put into effect?

A I told him Mr. Maass and Mr. Clifford approved it. I was asked to go back and review with him, presuming he approved of the plan, we'd put it into effect.

Q As a result of this conversation you had with Mr. DeGenaro, this third telephone conversation, was it your understanding that this plan was legal and approved by counsel?

A Yes, and I still believe that it is legal.

Q Was there any doubt in your mind, after you

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finished talking to Mr. DeGenaro, that this plan was legal?

A I had no reservations about it.

Q Throughout the time you stayed at Security National, did you ever have any understanding that the plan was illegal?

A No, sir.

Q You told the Jury there was a means by which officers were paid their salaries.

Explain that. Did the bank physically issue a pay check to its officers each week?

A No. We credited the net proceeds of their pay to their checking account, but we gave them a voucher that indicated the gross pay, deductions and net amount contributed.

Q Did every single officer have their own checking account at the Security National?

A Yes, a free checking account.

Q Was this in their own name?

A He can decide whether it was his name or his wife's or both.

Q Let's assume Friday comes, he's supposed to be paid.

What happened to his pay on Friday?

A Net pay would be credited to his checking

account. He'd get the advice on Thursday evening.

Q The officer never saw a pay check?

A Right.

Q But he received a paper telling him he received that amount of money?

A Yes.

Q Did he have the free right to write checks agains t this checking account?

A Yes.

Q Did the officers do this?

A That's how I paid my bills.

Q When Mr. DeGenaro said there would be no deductions, was he talking about the bank taking out $100 a month?

A Yes, like savings bonds, where we withhold from each pay slip. He wanted a physical act by the officer making the contributions.

Q He didn't want an automatic payroll deduction but a payment affirmatively made by the officer?

A Yes.

Q This is what subsequently was done?

A Yes.

Q Did you follow his advice in all respects?

A Yes.

Q Did you ever ask Mr. DeGenaro for legal opinion?

A Yes.

Q Tell us what that conversation was? Was it the same third conversation?

A Yes. I said I'd appreciate giving me a legal opinion, a letter confirming the details of this plan, and its propriety.

Q What did he say?

A He said he would prepare such a letter and forward it to us.

Q Did he ever do that?

A No, sir.

Q Did you ever see a written legal opinion from Mr. DeGenaro?

A No, sir.

fls.

(Continued on next page.)

BY MR. DOWD:

Q Did you ever ask him for that written legal paper after that?

A Yes. In response to several officers, I said we have a verbal opinion but Mr. DeGenaro said he will confirm it in writing. One or two asked if I received it and I hadn't. I called Mr DeStefano several weeks later and asked him why I didn't receive it. He said he reviewed it with Mr. Shea and the firm and he didn't feel a legal opinion was necessary. He said this law was on the books for 50 years, never enforcement of it against any bank, no cases on the matter and his opinion would be a restatement of the law. Everything else I told you is common sense. He said, we don't feel a legal opinion is appropriate at this time.

Q After you had this third conversation with Mr. DeGenaro that you told us about, what did you do?

A I went back to Mr. Clifford and told him I spoke to Mr. DeGenaro about the program in its final form and reviewed it, that's the one Mr. Lowe was present at, he said, "Fine, review it with Mr. Maass." I told Mr. Maass we got concurrence of counsel and went down as to what I told Mr. DeGenaro and he said, "Fine, go ahead and call the officers you think will be willing to join.

Let me know if they are willing to join or not."

Q When you went to Mr. Clifford and told him about the third conversation that you had with Mr. DeGenaro, did you tell Mr. Clifford what Mr. DeGenaro told you?

A Yes, sir.

Q Did you hold anything back?

A I am sure I gave him everything that was said.

Q Did you lie to Mr. Clifford?

A No, sir.

Q When you went to Mr. Maass and told him about the third conversation with Mr. DeGenaro, did you hold anything back?

A No.

Q Did you lie to him?

A No, sir.

Q Did you accurately report what Mr. DeGenaro told you to Mr. Clifford and Mr. Maass?

A Yes, sir.

Q You precisely told them what the lawyer told you you go do?

A Yes. I was asked to call the officers I volunteered to enlist and Mr. Powell I think had some names that I think he would call on and I don't know if

there were any other officers [illegible]l. I called the officers I had the responsibility to call.

Q How was it decided that Betty Jaeger would get involved in this?

A That didn't come up at that time. The way it was proposed we would continue with Miss Reddy but once we got the concurrence and going ahead, Mr. Clifford suggested since Mr. Maass was going to be retiring shortly and since it was outside money, that he would like Mr. Maass and Mr. Powell to be the officers responsible for the supervision of the fund. I am sure Mr. Powell must have selected Miss Jaeger just as Mr. Maass selected Miss Reddy.

Q Miss Jaeger was Mr. Powell's secretary and Miss Reddy was Mr. Maass' secretary?

A Yes.

Q Did you talk to any officers and ask them to volunteer to this program?

A Yes.

Q Do you recall who?

A I know Mr. Brooks, and one other officer charged in the indictment, a group of other officers. I enlisted Mr. Casey, Mr. Dutra, Mr. Vandermark.

Q How about Mr. Hart?

A Yes, sir.

Q What about Mr. Brocke?

A Yes.

Q How about Mr. Garganc?

A Yes.

Q Mr. Bradley?

A Yes.

Q Mr. Dutra?

A Yes.

Q Were there any others?

A Yes, sir. I am sure a third to a half at least one third must have been officers I spoke to.

Q Can you recall any other names?

A No, sir, but if you refresh my recollection.

Q You don't deny you spoke to a group of officers and asked them to join and contribute to the fund?

A No, sir.

Q Did you do this after the conversations with Mr. DeGenaro?

A Yes, sir.

Q At the time you had this conversation, was it your understanding what you were proposing to these officers was legal?

A No question about it.

Q Did you receive a $1,700 raise?

A Yes.

Q Did you make contributions of $100 a month?

A Yes, sir.

Q Through what period of time did you make the $100 a month contributions?

A All the way through December 1972 when I announced that I was leaving.

Q Who did you make those $100 contributions to physically?

A I had my secretary give them to Miss Jaeger and consequently to Mr. Chadwick.

Q Was there a time you gave the contributions to Mr. Dutra?

A I am sure I gave it to him, too.

Q Referring to the Long Island Affairs Club --

A I think Miss Faeger maintained those records.

Q You say there came a time when you stopped in the summer of 1972, is that correct?

A Yes.

Q Why did you stop?

A I had told Mr. Clifford I was leaving the

bank to accept the presidency of the Nassau Trust.

Q And -- so from October of 1967 to the summer of 1972, you contributed the rate of $1,200 a year?

A Yes, sir.

(Continued on next page.)

Q Did you ever decline or refuse to make a payment when you were called upon to make one?

A No, sir.

Q Did you make these contributions to the various funds throughout this five year period voluntarily?

A Yes.

Q And anybody ever threaten you?

A No, sir.

Q Hasn't anybody ever coerced you?

A No, sir.

Q Anybody ever intimidate you?

A No, sir.

Q Did anybody ever threaten you with job reprisal?

A No, sir.

Q Did anybody ever threaten you with financial reprisal?

A No, sir.

Q Did you make the payments by cash or check?

A I believe all of them were by check.

Q Do you have those checks?

A No sir, I don't.

Q Will you tell the court and jury what happened to the checks?

A When I left the Nassau Trust CompanyI asked them

to send all of my records which included my checks that I kept in the bank, to me, but apparently they had been mislaid because I did not have any of the checks all the way up through 1973.

Q At my request did you make a search of your home for the checks?

A I have.

Q Have you inquired elsewhere to see if those checks could be located?

A Yes.

Q There has been offered into evidence and accepted into evidence the Pauline Reddy account, the Betty Jaeger account and the Arthur Chadwick account, all of which indicate that you made contributions at the rate of $100 a month?

A Yes.

Q Do you deny it?

A No. I madeevery one.

Q Do you dispute any of the references in the record that Mr. Katzberg offered into evidence reflecting payments by you?

A No, sir.

Q You don't deny any of it?

A No, sir.

Q Let me take you back to the time when you had

conversations with other bank officers to contribute to this program?

A Yes.

Q You recall speaking to Mr. Hart?

A Yes.

Q Let us talk about Mr. Hart.

A Yes.

Q Did he work under you, sir?

A He was the officer in charge of Municipal Development for the bank.

Q Tell us what Mr. Hart did with the respect to municipal development?

A He was the officer whose prime responsibility was to see that we developed Municipal accounts.

Q Was it his practice to call upon various people involved in Government?

A Yes.

Q And you know that of your own knowledge?

A Yes.

Q And did he report back to you?

A Yes.

Q Now, is there any doubt in your mind that you spoke to Mr. Hart?

A No doubt.

Q And where do you recall speaking to him?

A I asked him to visit my office and I went through -- I explained to him that the officers -- that the directors had previously been buying the tickets to these dinners, but that they did not wish to continue, that the senior officers were going to take on the responsibility of buying the tickets to the dinners and would he join with us on a voluntarily basis by contributing $100 a month to a fund out of which we would buy the tickets to these affairs.

Q What did Mr. Hart say to you?

A Mr.Hart says he would. He said that he recognized that we had to attend these dinners and he said that we could count on him.

Q Did you tell Mr. Hart about a $1700 a year raise?

A Yes.

Then I told him that -- I said, "Good because I have been authorized to tell you that the bank will recommend you for a $1700 increase, which would give you $1200 to be able to make the contributions."

Q Did you explain to him about the balance of the $500?

A Yes.

Q What did you say to him about that?

A The difference would be for any income taxes that

he might have to pay on the $1700.

Q Do you recall where in particular this conversation took place?

A It was in my office.

Q Were the two of you alone?

A Yes.

Q Was this a secret meeting?

A No, sir.

Q Was there other occasions prior to that time when you and Mr. Hart were in your office alone?

A Regularly.

Q And did anybody instruct you to talk to Mr. Hart in secrecy?

A No, sir.

Q Was there any conversation at the time that the officers meet and select officers, that they would have conversations with anybody in secret?

A No, sir.

Q Was there any policy adopted at that time?

A No, sir.

Q Did you know at that time that Mr. Hart had been attending dinners on tickets that had been bought by the directors?

A Yes, sir.

Q And I am talking about dinners sponsored by political groups?

A Yes.

Q Did you ever threaten Mr. Hart?

A No, sir.

Q Did you ever intimate him?

A No, sir.

Q Did you ever coerce him?

A No.

Q Did you ever make any threats to Mr. Hart as to job discrimination?

A No.

Q Did you ever make any threats to Mr. Hart of financial reprisal?

A No.

Q Did Mr. Hart ever complain to you that he did not want to join and make these contributions?

A Never.

Q Did Mr. Hart ever complain to you that this was not a voluntary act on his part?

A No, sir.

Q Did Mr. Hart ever complain to you that he was coerced?

A No.

Q There did come a time when you went to the Nassau Trust Company as you told us?

A Yes.

Q Did Mr. Hart then go to work at the Nassau Trust Company?

A Yes, I brought him with me.

Q Did you bring him in?

A Yes.

Q You hired him?

A Yes.

Q He worked for you at the Nassau Trust Company?

A Yes.

Q When he was no longer at the Security National Bank and Mr. Hart was now working for you at the Nassau Trust Company, did he ever complain to you that while he was at the Security National Bank he had been threatened or coerced?

A No, sir.

Q Did he ever tell you --

MR. PATTISON: I object to this form as leading.

THE COURT: I will allow it.

Q Did he ever tell you that when you were at the Nassau Trust Company that he had not made these payments?

A No, sir.

Q Did he ever tell you when you were at the Nassau

Trust Company that he had been threatened or in any way coerced by any one concerning this program?

A No, sir.

Q Now, let me take you to another gentleman that you told this Jerry that you talked to. Let us talk about Mr. Brooks. What was Mr. Brooks' job at the bank at the time that you spoke to him?

A Mr. Brooks was in charge of the Riverhead Office, The County Seat of Suffolk County.

Q Do you recall where it was that you spoke to Mr. Brooks?

A In my office, I believe.

Q By the way, where was your office at that time?

A On Main Street in Huntington.

Q Mr. Brooks had come in from Riverhead to come to your office?

A He came in regularly.

Q Again, was this a secret meeting?

A No, sir.

Q Were you alone, Mr. Brooks and yourself?

A Yes, but the door was open and my secretary was sitting right outside.

Q Tell us what you told Mr. Brooks at the time that you discussed with him his joining this program.

A Much the same as with Mr. Hart, that the directors had been buying the tickets, to these political affairs, but they objected to continuing the practice, that a group of senior officers had decided that they would try to take on the responsibility and on a voluntary basis, and I asked Mr. Brooks would he be willing to contribute a $100 a month to an officer's fund out of which we would buy the tickets to these affairs.

Q Did you know Mr. Brooks before he came into your office?

A Yes, I worked closely with him and felt him to be a very able officer.

Q Were Mr. Brooks and Mr. Hart two of the officers that you had suggested at this meeting that you told us about?

A Yes.

Q And did you say anything to Mr. Brooks concerning voluntariness?

A Yes, I told him -- I asked him if he would join on a voluntary basis. Mr. Brooks told me he knew it was important to attend these affairs because he had the Suffolk County major account in the Riverhead office.

Q You are talking about municipal accounts?

A Yes, and he recognized that we simply had to attend.

Q And did you tell Mr. Brooks about a $1700.00 raise?

A Yes, I told him the same thing that I was glad that he was willing to pitch in to give us a hand and I was glad to tell him that I would be able to recommend him for a $100 a month increase -- for an increase of $1700 that would enable him to make the $100 per month contribution, so that there would be no cost to him.

Q And what did -- withdrawn.

Did Mr. Brooks accept and agree to join the plan?

A Mr. Brooks accepted right then on the spot.

Q Did Mr. Brooks -- withdrawn.

Did you ever threaten Mr. Brooks in any way?

A No, sir.

Q Did you ever intimidate Mr. Brooks in any way?

A No, sir.

Q Did you ever coerce Mr. Brooks in any way?

A No, sir.

Q Did Mr. Brooks ever complain to you that he didn't want to join this program?

A Never.

Q Did you ever threaten Mr. Brooks with any job discrimination?

A No, sir.

Q Did you ever threaten Mr. Brooks with any financial reprisal?

A No, sir.

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Q Did Mr. Brooks ever tell you during all the ti' that you were at the bank that his contributions and participation was not voluntary?

A No, sir.

Q He never complained to you about that?

A No, sir.

Q Let us take the next gentleman, Mr. Gargano?

A Right.

Q Can you tell the court and jury what Mr. Gargano's position was at that time?

A I believe at that time he ran the east northport office for the Security National Bank.

Q Did you know Mr. Gargano prior to this time?

A I felt that he was a fine, able, upcoming officer.

Q Did you have any conversation with Mr. Gargano?

A Yes.

Q So that we can foreshorten this for the jury, did you tell Mr. Gargano in substance precisely what you told Mr. Brooks and Mr. Hart?

A Yes.

Q And if I were to ask you to repeat that conversation, would your testimony be the same as it was with regard to Mr. Hart and Mr. Brooks?

A Yes.

Q Did Mr. Gargano join the program?

A Yes.

Q Did he get a $1700 raise?

A Yes.

Q By the way, when you got the $1700 raise in October of 1967, what was your salary at that time?

A I believe it was $26,500.00.

Q Now, did you ever threaten Mr. Gargano?

A No, sir.

Q Did you ever intimidate him?

A No, sir.

Q Did you ever coerce him?

A No, sir.

Q Did he ever complain to you that he did not want to joinAor make the contributions?

A No.

Q Did he ever tell you that it was not voluntary?

A No, sir.

Q Did he ever tell you that he felt he was coerced?

A No, sir.

Q Did you ever make any threat of job discrimination against Mr. Gargano?

A No, sir.

Q Did you ever threaten Mr. Gargano with financial

reprisal if he did not join the program?

A No, sir.

Q You told us that you also had a conversation with Mr. Vandermark and Mr. Bradley?

A Yes.

Q And to foreshorten your testimony, if I were to ask you the same questions as to the conversation you had with Mr. Vandermark and Mr. Bradley that you told us that you had with Mr. Hart and Mr. Brooks, would your answer be the same?

A Yes. Every officer that I spoke to I spoke in the same manner, except those officers such as Mr. Dutra, who I felt were being paid --

Q I will speak to you about Mr. Dutra later. That is a little bit of a different situation. Let me for the moment confine your testimony to Mr. Vandermark and Mr. Bradley

Did you speak to those two officers in the same manner and the same substance that you told us about that you spoke to Mr. Hart and Mr. Brooks about?

A Yes.

Q Did you threaten either one of those officers? In any way?

A No.

Q Did you coerce or intimidate them?

A No.

Q Did you threaten either of those officers with job discrimination or financial reprisal?

A No, sir.

Q Neither of those officers at the time you were at the bank complained to you that they felt threatened or coerced with respect to their participating in the program?

A I was a friend of every one of those officers and no one ever came to me and told me that he was upset or concerned about contributing to the program.

Q Do you know Mr. Dutra?

A Yes.

Q Did there come a time when Mr. Dutra came to work under you?

A Yes.

Q He was not an officer of the bank in 1967; is that correct?

A That's right.

Q Do you remember when it was that Mr. Dutra came to work for you?

A I believein the beginning of 1969.

Q And in what capacity did he come to work for you?

A As vice-president.

Q At that time had your job assignment changed from lending to something else?

A Yes, I had been asked by Mr. Clifford to take the responsibility of developing a marketing department for the bank.

Q We will come to that in a few minutes.

Let me take you back now while we're on the subject of who you talked to, to Mr. Dutra.

Mr. Dutra was hired by the bank to work under you; is that so?

A Yes.

Q You recall ever having a conversation with Mr. Dutra when you asked him to join this program?

A Yes.

Q To the best of your recollection tell us about when this conversation took place?

A I believe this was probably in the Summer of 1969, afterhe had been there a while.

Q At that time where wereyou and Mr. Dutra physically located?

A I believe at that time his office was down on the lower level in Huntington.

Q Was this the same offices that you were at in 1967?

A 2069

A Yes.

Q And will you tell us -- withdrawn.

Where did this conversation take place between Mr. Dutra and yourself?

A I can't recall whether it was in my office or his office.

Q And tell the court and jury what your conversation was with Mr. Dutra.

A By that time I had been given the responsibility for business development as part of the marketing department and the function of attending political events was really a business development function and I had been asked to assume full responsibility for attendance at those events as well as all the other events.

Q Did you take over this whole operation as part of your responsibility?

A Yes.

Q You don't deny that, do you, sir?

A No.

(continued next page)

Q You do not pass this responsibility onto anybody else?

A No, sir, my responsibility.

Q And to the extent that any officer junior to you participated in this program or exercise any discretion, do you accept responsibility for that officer?

A Yes, for Mr. Dutra, Mr. Casey, Mr. Chadwick, Miss Jaeger, any officer that handled that program for me I assume a hundred per cent of the responsibility.

Q Going back to Mr. Dutra, what was the conversation with Mr. Dutra concerning his participation in this program?

Tell us what you said and what he said.

Q Since the attendance at these political events and the matter of developing municipal deposits had come under the marketing department, I asked Mr. Dutra to accept the responsibility for being the director of marketing. I felt that it would be also appropriate for him to attend these affairs and for him to do it by being willing to contribute a hundred dollars a month to the officers' fund. I asked him if he would be willing to do it on a voluntary basis, because it would be for the best interests of the bank and certainly in line with his responsibilities. I did not mention a salary increase because at the time he was making, I believe, $35,000 a year, and I was only making thirty-four.

Q How much were you maki g at that time?

A Thirty-four --

Q Thirty-four, thirty-four five?

A I know I was making less than he and I felt he was being well-paid, and it wouldn't be inappropriate to ask him to join, if he would do it out of his own pocket.

Q And this thirty-four, thirty-four five, you were getting had built into it the seventeen hundred dollar increase that you had gotten two years before?

A Yes.

Q But you did not offer Mr. Dutra an increase; is that correct?

A No, sir.

Q Did Mr. Dutra to your understanding have a choice at that time?

A Yes.

He said he had been well-acquainted with this type of program, and he said we could count on him. It took him a couple of days, but he said that he'd be willing to pitch in.

Q Again, did you threaten Mr. Dutra?

A No, sir.

Q Did you coerce him in any way?

A No, sir.

Q Did you threaten him with job discrimination or

financial reprissal?

A No, sir.

Q Is it your understanding that Mr. Dutra joined the program voluntarily?

A Yes.

Q Did he ever come to you while you were at the bank and complain to you that he was not participating in this program voluntarily?

A No, sir.

Q Let me take you to a gentleman by the name of Mr. Casey.

Did there come a time when Mr. Casey came to work for Security National Bank?

A Yes, sir.

Q In what capacity was Mr. Casey hired at the bank?

A He was hired as a vice-president to be in charge of Business Development.

Q Did you know that Mr. Casey was a lawyer licensed to practice law in the State of New York?

A That was one of the qualifications that I took to mind when we hired him.

Q Did you have a conversation with Mr. Casey with respect to his participation in this program?

A I think Mr. Dutra and I had a conversation where

we agreed that it would be appropriate to ask Mr. Casey, since he was heading Business Development which included Municipal Development, to join the Club and I believe Mr. Dutra spoke to Mr. Casey, but I know I spoke to Mr. Casey when I was able to get the five thousand dollar increase and told him I had gotten that kind of increase and that I would ask him if he would join the Club and contribute $1200 a month, which I had understood had been discussed with him by Mr. Dutra, and he said that he would be delighted.

Q To the best of your recollection, at the time that you had this conversation with Mr. Casey, how much was Mr. Casey being paid by the bank?

A You'd have to let me see the records to refresh my recollection.

Q Let me go on to another question while Mr. Katzberg is looking for Mr. Casey's card.

MR. COHN: Do you have any objection if I show him this copy?

MR. KATZBERG: No.

Q (Continuing.) Would you take a look at Mr. Casey's card and call off his salaries, please?

A We hired him in January of 1970 for $30,000 and in January of 1971 he received a $5000 increase, which is what I was talking about that brought him up to $35,00.

Q At the time that you invited Mr. Casey to join this program, he was receiving a salary of $35,000 a year; is that what you are telling us?

A Yes.

Q Did you ever threaten Mr. Casey in any respect?

A No, sir.

Q Ever threaten him with job discrimination or financial reprissal?

A No, sir.

Q Ever coerce him?

A No, sir.

Q Intimidate him?

A No, sir.

Q Did Mr. Casey, who was a lawyer, ever come to you when you were at the Security National Bank and tell you that in his opinion this program was illegal?

A Never, sir.

Q Did Mr. Casey ever come to you at the time that you were at the Security National Bank and tell you that he was committing a crime by participating in this program?

A Never, sir.

Q Did there come a time after you left the Security National Bank that you went to the Nassau Trust Company that you hired Mr. Casey?

A I asked him to come and join me there.

Q And after he came to the Nassau Trust Company and he no longer was employed by the Security National Bank, did Mr. Casey ever come to you and tell you that he was coerced or intimidated or threatened or forced to join this program when he was employed at the Security National Bank?

A Mr. Cohn, Mr. Casey and I were good friends. We worked together at two different banks. We were personal friends. He visited me and I visited him and never until he testified in this court a couple of weeks ago did he ever indicate in any way that he thought this program was illegal or improper.

I counted on Mr. Casey because I felt he was a lawyer, a successful politician and an experienced banker, and I gave him the responsibility for the administration of this program because I felt I could count on him to handle it properly without question.

Q And he never told you when you were at the Nassau Trust Company that when he was at the Security National Bank, he committed a crime?

A Never.

Q Now, will you tell the Court and jury how the pay-out was made out of the fund during the period of time that Betty Jaeger was maintaining this Betty Jaeger Fund?

To be more precise, in your own words, explain to the jury how requests for contributions came from various political organizations, how they were channelled through the bank and how the decision was made to ultimately make the contribution.

Take your time and explain as best as you can to this Court and jury.

A What we did was to carry over the directors' program. Instead of the directors, who had been making the contributions to the fund, we asked the individual officers to do it, and what we did was to ask each officer if he would contribute a hundred dollars a month or fifty dollars a payday to Miss Jaeger. They would take his check or cash and give it to Miss Jaeger and she would deposit it to her special account. Then as far as the requests for contributions, they would continue to come in as they did before. For instance, if you were the manager in the East Hampton branch and the local Democratic committee wanted you to go to a clambake, they would send the request in to you as the manager. If you thought it made good sense, because you had deposits from the Town of East Hampton or you felt it would be good to attend the clambake because there would be a lot of politicians or businessmen, for whatever reason, you would indicate it on the request, "I recommend that we buy two tickets to the

A 2077

lambake." And then you would send it down.

In the early days when we first got the program off the ground, it would go to Miss Jaeger and she would get it approved either by -- well, it had been approved by the manager. It would be reviewed by Mr. Powell in the early months and after that mostly by myself and after Mr. Dutra by Mr. Dutra, and after Mr. Casey by Mr. Casey, and then when Mr. Casey hired Mr. Chadwick, it was reviewed by Mr. Chadwick, and if any of us that were in the particular review function thought it was also worthwhile, then -- that's the function that Mr. Maass had previously done -- then we would concur with it, put an okay on it, give it to Miss Jaeger or Mr. Chadwick and they would issue the check to the East Hampton Democratic Committee, and they would obtain the ticket or tickets, and that would be sent probably to Miss Jaeger or she might have them sent to the manager and he would receive his tickets and attend the clambake.

Q Was there also a procedure where requests for contributions came directly into the bank headquarters?

A Yes.

Q Explain to the Court and jury how these requests were processed.

A In time the politicians realized they could save a lot of time if instead of sending it to the manager of the

East Hampton Office they sent it into Mr. Maass or Mr. Clifford directly, that they got better results there. They would send it into them as senior officers of the bank and particularly the larger organizations would. They would ask Mr. Maass or Mr. Clifford to approve it and they would indicate on it, "Yes, I think we should attend, by what table," and then it would come to myself or whoever was involved in it and we'd, naturally, with the approval of the boss, give it Miss Jaeger or Mr. Chadwick and they'd buy the tickets.

Q Did you know during the period of time that Betty Jaeger was involved in the disbursement of this money, that she maintained records?

A Yes.

Q That was never any secret to you?

A No, sir.

Q Did you know, Mr. Dowd, during all the time that you were at the bank that these particular three checking accounts that you told us were given by the bank to their officers, had records that were maintained on microfilm at the bank?

A Yes.

Q Never any doubt in your mind about that?

A No, sir.

Q Did you also know through all the time that you

had been working for the bank, if anybody wanted to get your checks that you made to this contributions system or anybody else's checks all they had to do was go to the bank and make a request for the microfilm?

A No question about that.

Q I take it it would take some time to have the bank make the microfilm print-out, but it could be done?

A Yes.

Q Is it fair to say that every single check that went into this political contributions system became a part of the permanent record of the bank?

A Yes, sir.

Q Now, let me take onto a new subject.

You told us in 1966 and in 1967 you were involved in lending; is that correct?

A Commercial lending.

Q Did there come a time when your area of operation within the bank changed to a new area, a new point of view?

A Yes.

We had brought Mr. Bradley in as Senior Vice-President and Mr. Clifford gave him the responsibility for the commercial lending area of the bank, and my duties had begun to broaden into other areas, and I was asked to take the responsibility for the advertising and public relations related

functions of the bank.

Q Was there now created in the bank a new department which was headed by you?

A Yes.

Q And you were still Senior Vice-President?

A Yes.

Q Would you tell the Court and jury approximately when this took place?

A I'd say the beginning of 1968 and by the end of 1968 I had fully organized the Marketing Department.

Q And did it come about that this entire political contributions system then became a function of this Marketing Department that you are telling us about?

A Yes.

Originally Mr. Maass and Mr. Clifford asked Mr. Powell to take the responsibility for the fund. Then it became obvious that Mr. Powell had other responsibilities in reviewing these requests and I became to take on a broader role and it became obvious it was a business development function, so by the end of 1968 the complete responsibility for the administration of the requests and the purchase of tickets was in the Marketing Department although Miss Jaeger still continued to keep the records under Mr. Powell's overall supervision.

Q It was now in your responsibility?

A Yes.

Q From that time on, did Mr. Powell's involvement in the plan terminate?

A I think by the middle of 1968 he was completely uninvolved.

MR. COHN: May I have this document marked for identification, your Honor?

THE CLERK: One-page document marked for indentification as Defendant Dowd's Exhibit OOO.

Q Mr. Dowd, did there come a time when you were in the Marketing Department as you told us that a chart was prepared showing who the officers were, where they were located with respect to the various duties and responsibilities and departments in the bank?

A Yes.

Q Would you look at this paper and tell me if you recognize it?

A Yes.

Q Tell the Court and jury what this paper is.

A This is a table of organization as to the Security National Bank.

Q Can you tell me, sir, by looking at the chart, as to which years you believe this chart relates?

A Probably would be 1969 or 1970, because

Mr. Travers is President.

Q Is it 1969 or 1970?

A 1969, 1970. Either one -- either one or both of those years.

Q Let me interrupt you for just a moment.

Would the officers change from time to time?

A Yes.

Q Some came in, some retirsd, some were fired?

A Yes.

Q With respect to that chart, is it your best recollection that this shows the table of organization of the Security National Bank during the years 1969, 1970?

A Yes.

Q Was that chart prepared by your department, sir?

A Yes, on the instructions of the Management Committee.

Q That was prepared under your supervision?

A Yes.

Q And was that chart to your knowledge approved by the Management Committee?

A Yes.

Q And it became an official table of organization of the bank?

A It was all reported to and approved by the Board

of Directors.

MR. COHN: I offer this into evidence, your Honor.

(Shown to Counsel.)

While that is being done, there is reference to some committees. I am not offering it for that purpose, but only as a table of organization as to the officers of the bank.

MR. KATZBERG: No objection.

MR. NAFTALIS: May I see it?

(Shown to Counsel.)

MR. NAFTALIS: No objection.

THE COURT: Mark it.

THE CLERK: Defendant Dowd's Exhibit ooo received in evidence.

MR. COHN: If your Honor pleases, I have duplicated this chart and I've had it blown it. I now have a blow-up of this chart which I would like to use for demonstrative purposes. May I ask that the blow-up of the chart be substituted for this chart so the jury may follow it?

THE COURT: We will do that after lunch.

We will take our luncheon recess now. Do not discuss the case. Be back at 2:15.

(Luncheon recess taken.)

(Continued next page.)

lpml

AFTERNOON SESSION

DAVID DOWD, having been previously duly sworn, resumes the stand and testifies further as follows:

DIRECT EXAMINATION

BY MR. COHN (Continued):

Q Mr. Dowd, before we proceed with the chart, let me just take you back for one or two items.

Do you remember Mr. Lowe?

A Yes.

Q Was Mr. Lowe also one of the officers that you spoke to about joining the club?

A Yes.

Q No question about that?

A No question about that.

Q Do you recall where it was that you spoke to Mr. Lowe about this?

A I believe this was at his desk.

Q Where was that at the time?

A At the platform at Huntington.

Q Approximately what time was this, if you recall?

A I believe it was in the afternoon.

Q Give me a date or year, if you can.

A I'd have to look at his Visi card to tell you.

MR. COHN: Would there be any objection to my showing the witness our copy?

MR. KATZBERG: None.

Q Would you take a look at Mr. Lowe's VISI card and does that refresh your recollection as to when you spoke to Mr. Lowe about participating in this program?

(Document shown to witness.)

A I know we didn't give him an increase at the time, so the VISI does not help me. I believe though that it was probably in 1969, 1970.

Q That is your best recollection?

A Yes.

Q At that time you said you spoke to him at his desk?

A Yes.

Q Tell the jury where his desk was located, whenever it was that you spoke to him.

A We had a large open area that was opposite the teller's area and on that open area we had probably 10 or 12 desks. He had one of those desks -- he occupied one of those desks.

Q And was it in that large open area that you had the conversation with Mr. Lowe?

A Yes.

Q To foreshorten your testimony, if I were to ask you the same questions as to your conversation with Mr. Lowe that I put to you with respect to your conversation with Mr. Hart, would your answer be the same?

A Yes.

Q Would you tell us in substance what you told Mr. Hart?

A Except that he was adequately paid and I did not think it was necessary to offer Roger an increase.

Q And he was not offered an increase?

A No, sir.

Q And he joined the club; is that correct?

A Yes.

Q And again, if I asked you the questions about coercion and intimidation, would your answers be the same?

A Yes.

Q He was never coerced, intimidated, threatened?

A Never.

MR. COHN: May I show the witness a copy of his VISI card, rather than produce the original?

THE COURT: Any objection?

Mr. KATZBERG: None.

Q Do you recognize this to be the VISI card

for your employement at the bank?

A Yes.

Q I want you to read to the jury each and every salary increase, when you received it, from 1966 to the time you left the bank in 1972.

A I began on February 14 with $25,000 a year.

Q That's February 14 --

A 1966.

I received an increase of $2,500 on February 6, 1967.

Q What was your salary with the increase?

A $27,500.

Then I received a $1700 increase that I spoke about on November 27, 1967. That brought me to $29,200.

Q This was the $1700 increase that you told us about in connection with the program?

A Yes sir.

Q Did you receive any increase after that?

A I received an increase on January 8, 1968 that represented --

Q $1500?

A That would have been $1500.

Q What was that?

A $31,700.

Q That was in Januare of 1968?

A Yes.

Q Did you receive any others?

A January 6, 1969 I received a $3,000 increase that brought me to $34,700.

On June 6, 1969 I received a $7300 increase that brought me to $42,000.

On January 5th of 1970 I received an increase of $5,000 that brought me to $47,000.

On January 4, 1971 I received an increase of $3,000 that brought me to $50,000.

Q That was January 4, 1971?

A 1971.

Q Did you ever get an increase after that?

A No.

Q From January 4th of 1971 to September of 1972 you received no increases?

A Right.

Q Thank you.

Again so that there is no confusion with regard to your prior testimony, would you read to the jury from Mr. Dutra's VISI card, and tell the jury the day that Mr. Dutra first went to work at the bank and what his salary was?

A He joined the bank on January 2, 1969 at $35,000.

On January 5th of 1970 he got a raise of $3,000 to $38,000.

On January 4, 1971 he received a raise to bring him to $40,000.

Q And Mr. Dutra worked under you?

A Yes.

Q And he reported to you?

A Yes.

Q And then just finally with regard to Mr. Casey, will you be kind enough to read to the jury from Mr. Casey's VISI card the day he went to work and what his salary was?

A Mr. Casey started on January 19, 1970 at $30,000.

He received a $5,000 raise that we talked about earlier on January 4, 1971. That brought him to $35,000.

Then on January 3, 1 972 he got $3,000 more that brought him to $38,000.

Q If you recall we went over that with an eyeglass and that turned out to be $35,000?

A I am sorry.

Q So his last salary was $35,000 reported on this card?

A 2091

A Right.

Q And now Mr. Dowd, you told us there came a time when the marketing department was set up at the bank.

Was this a new department, sir?

A Yes.

Q Approximately when in point of time was this marketing department set up?

A Probably all put together by the end of 1968.

Q And were you assigned to head that department?

A Yes, I was.

Q Was this a new assignment for you, sir?

A Yes.

Q Prior to that time, did you have any experience in the field of marketing in the bank?

A No sir, I didn't.

Q Prior to that time your expertise was in the field of commercial lending?

A Yes.

Q What was the purpose or function of the marketing department?

A The marketing department was responsible for all the public areas of the bank. For instance, responsible for the advertising, for new branch sites, for bank promotions, for public relations, business development area

of the bank and all of these things that help a bank grow.

Q Were you involved in obtaining new individual accounts, commercial and savings accounts?

A The major function of the department was with regard to the generation of individual deposits.

Q Were you also involved in the generation of commercial accounts?

A Yes, we had a business development department whose responsibility was the development of commercial business.

Q What are we talking about here?

A All the business firms in your marketing area, have them bank with us, borrow money from us.

Q Was this companies, partnerships, corporations?

A Yes.

Q Merchant or commercial businesses?

A All the stores, plants, businesses.

Q That was within your marketing department?

A Yes.

Q Were you also involved with municipal accounts?

A As part of the business development department we had a municipal development group.

The individuals in that group were primarily concerned with the development of municipal business.

Q Was your department also involved in the opening of new branch offices?

A Yes.

Q Was that done under your supervision while you were in the marketing department?

A That was another important function.

We knew when we joined SEcurity National that it wouldn't be many years before the major New York banks came out and we had to build a very large branch system as soon as possible. We had some 30-odd branches when I joined and when I left we had close to 100.

Q Tell the Court nad jury during the period from 1968 to 1972 approximately how many new branches you were involved with in opening for the Security National Bank.

A Over fifty in the selection and in the marketing aspect of opening them, obtaining the approvals and actual procedures for new business openings.

MR. COHN: At this time may I with possibly the assistance of the Court Clerk set up a chart that I may use for demonstrative purposes?

THE COURT: Yes.

MR. COHN: May I have your permission to use that board?

THE COURT: Yes.

MR. COHN: Do you have any objection if I put it here, so I may explain it to the jury?

THE COURT: None at all.

MR. COHN: Thank you, sir.

THE COURT: I know they supplied us with pointers, but I do not have one available in the courtroom.

(continued next page)

Q Mr. Doud, that is a blow-up of the chart that you previously identified?

A Yes.

MR. COHN: May I have the witness leave the witness stand, Your Honor, and approach the chart?

THE COURT: Yes.

MR. COHN: May I inquire of the jury whether they can see it?

THE COURT: I do not know if they can read the writing, but they can surely see it.

MR. COHN: Perhaps we should move it closer.

Q Mr. Doud, would you please approach the chart and first will you explain to the jury again what this chart is? What does this chart represent?

A This is the organization chart of the Security National Bank in approximately 1969 or 1970.

Q And at that time who were the Chairman of the Board and the Chief Executive Officer?

A At that time it was Patrick Clifford.

Q And does his name appear at the place where I am pointing?

A Yes.

Q Who was next in line, the Chief Administrative Officer?

A Martin J. Travers, President.

Q Does he appear at the line that I am indicating here?

A Right.

Q Who was the next officer in charge of Administration under Mr. Travers?

A Frank Power was executive Vice-President.

Q Does his name appear at the place where I am indicating now?

A Yes.

Q Now, what were the divisions under which the officers and employees of the bank were divided?

A We really had four basic divisions in the bank.

Q And point out to the jury which they were?

A We had a banking division, we had an investment division, we had a loan division and an operations division.

Q What was the function of the banking division?

A The banking division was concerned with bringing in deposits to the bank. Their job was to get the business, get the deposits into the bank.

Q Who ran the banking division during those two years 1969 and 1970?

A That was my responsibility.

Q Is this where you appear, vice-president, David

J. Doud? A 2097

A Yes.

Q Once the money came into the bank, what happened to the money in the bank after that?

A It was given to the investment division to invest.

Q Who was in charge of that?

A Mr. McCabe.

Q John W. McCabe, Senior Vice-President and he is listed as Senior Vice-President?

A That's right.

Q What happened to the money after that?

A To the extent we did invest the money, we put the money out in loans, so the loan division was responsible for all of the lending of money.

Q Now, in 1969, and 1970, who was in charge of the loan division?

A Mr. Bradley.

Q Would you point his name out?

A (Indicating).

Q Senior lending officer, Robert J. Bradley, Senior Vice-President?

A Yes.

Q What was the function of the operations division?

A It ran the bank on a day to day basis.

Q In other words, they ran the personnel, the building?

A The bookkeeping department, all the services of the bank, the internal workings of the bank were the responsibility of the operations division.

Q Who was the head during those years?

A That was Mr. Powell's responsibilit-.

Q Show the jury where he appears on that chart?

A (Indicating.)

Q Chief operating officer Frank B. Powell.

Let us come back to the banking division. Would you explain to the jury how the banking division was subdivided under your jurisdiction?

A We really had two main divisions, branch administration which composed of approximately sixty branches, that were generating the deposits, and loans and doing business for the bank.

Q Let me just stop you there for a moment. Who was the branch administrations officer?

A That was a gentleman by the name of Joe Fretz.

Q He was a vice-presidant?

A Yes.

Q How many districts -- withdrawn.

Were the branches of the bank divided into various districts?

A We had the branches broken down into four districts and each district has a number of regions.

District #1 encompassed Brookhaven and the Eastern end of Long Island.

Q Who was in charge of District #1?

A It varied from time to time.

Q Was that Mr.Dickerson?

A That probably would be Mr. Dickerson.

Q Would you just check it again on the small copy?

A Mr.Dickerson.

Q And who was in charge of District #2?

A Mr. Van Darling. He had all the remaining parts of Suffolk, Huntington, Babylon, Islip.

Q District #3?

A Mr. Milford. He had the branches located in southwest Suffolk, mid Nassau and the southeast portion of Nassau.

Q District #4?

A James Agnew. He -he had the remaining western portions of Nassau County, the northern and southern.

Q All of these districts and all of these officers were they all under your supervision?

A Yes.

Q And they ran all the branches?

A Yes.

Q And you in effect drew them and administered the branches of the bank?

A Yes.

Q New branches were opened up within those regions and werethey assigned to the particular district they were located in?

A Yes.

Q Were you responsible for opening these branches?

A That would be through the marketing department.

Q We will come to that.

Under you, sir, what is the next department?

A That would be the marketing-planning development under Mr. Dutra.

Q Mr. Dutra is directly under you; is that correct?

A Yes.

Q Who was under Mr. Dutra?

A He had two areas, he had a fellow named Bob Wohling who was in charge of advertising, public relations, new products of the bank and branch development of the bank. He also had Mr. Casey--

Q Point out where Mr. Casey stands?

A He was in charge of the bank branch development program.

Q He was under Mr. Dutra?

A Yes.

Q And Mr. Dutra reported to Mr. Dowd, no question about that?

A No question.

Q You ran Dutra and you also ran Casey; is that correct?

A Yes.

Q No question about that?

A No, sir.

Q Under Mr. Casey, what do we have?

A We have the Long Island division that was run by Winston Park. It was the municipal development of the bank. Under him he had a group that was concerned with the development of Nassau Municipal deposits, Suffolk Municipal deposits, and Federal and State.

Q Each one of those boxes represents a various function with a separate officer, such as the Nassau group under Mr. --

A O'Donohue.

Q And the Suffolk group?

A Mr. O'Doherty.

Q All of this was under your supervision as well?

A Yes.

Q Now, come down to this column and tell us what that represents?

A Also under Mr. Casey was the Regional Business Development Department that was supervised by Mr. Seikel, then there was the Unions and group business under Mr. Armstrong, then the institutions which were really banks under Mr. Stevenson, new business contacts under Mr. Fitzsimons, then the officer call program, then Mr. Chadwick Meetings and Events Section.

Q Arthur Chadwick was he concerned with meetings and events?

A That was his function.

Q With regard to all of the officers and all of these boxes, all of this was run under your supervision; is that correct?

A Yes.

Q And that is what you did for the salary that the bank paid you?

A Yes.

Q During 1969 and 1970?

A Yes.

MR. COHN: At this time, Your Honor, I am through with the chart. May I have your permission to move it over to the side?

THE COURT: Surely.

Q Before we leave this chart, the investment division was run by another officer?

A Mr. McCabe.

Q You had nothing to do with that?

A No, sir.

Q And the loan division was run by Mr. Bradley?

A Yes.

Q You had nothing to do with that in 1969 and 1970?

A No, sir.

Q And the operations division was run by Mr. Powell?

A Always, Mr. Powell.

Q And Mr. Powell had all of these people under him and all of these groups and all of these agencies?

A Yes.

Q Thank you.

Would you please resume the witness stand.

(Witness resumes witness stand.)

Q Now, Mr. Doud can you explain to the jury how commercial accounts were invited into the bank, how they were handled and what was done with regard to bringing in commer-

cial accounts, commercial lending, which were all under your supervision at least during the time this chart would trace? Would you state it in your own words so that the jury will understand what the workings of the bank were?

A We had an ordinary program to make sure that each of the branch managers knew who the commercial firms were in their market area and the business development function would be to obtain all the names of those organizations from Dun and Bradstreet and from the telephone directory and set up a program to make sure that the branch managers called on those commercial firms. They would also make it a point to see that the officers of the branches attended the various important social, charitable, business and political events where we would have a chance to meet a number of these business men in the different areas at work time.

Q Were the commercial accounts an important element of the bank's business?

A That really was one of the key areas of growth of the bank and there was an area that Mr. Clifford was particularly able.

Q And you were involved then with sending out people to attract this business into the bank, right?

A Yes.

Q Were these people really different from salesmen?

Maybe you don't call them that in the bank, but in essence is that what they were doing?

A That is what we did.

Q You'd send out a call officer and what would he do if he wanted to attract an account into the bank?

A Hopefully he would drop by, introduce himself to you and tell you we are a fine bank and we'd love to offer our services to you as a lawyer and hope that you will start banking with us.

Q What services did you have available that were offered to prospective commercial accounts?

A Checking accounts, savings services, trust services, lending services. We have the whole gamet of banking services.

Q Did you also perform payroll services for commerical institutions?

A Payroll services, check reconciliation services.

Q Is that something to your knowledge that the call -officer would explain to a potential customer of the bank?

A Yes.

Q Why was it necessary for the call-officer to attend dinners or functions with effect to commercial accounts?

A The problem is that if you just waited for the

commercial customer or prospective customer to walk in the door, you are going to wait an awful long time. You had to go out to find him. That means you'd have to find an occasion where he'd be at. While it was effective to call on each individual business man, it was more effective to find him at an event where you could visit two or three or five or ten or fifty customers or prospective customers, at one meeting. It was just more economical to attend dinners, than to call on them individually.

(continued next page)

Q What type of dinners would the representatives of the bank customarily attend with respect to obtaining commercial accounts?

A All of the business type dinners, the Gowanus, the Trade Associations, the Long Island Associatins. Itwould be all the charitable events, the Boy Scout Dinners, the Girl Scout Dinners,. Those type of causes. It also would be all the political events, because at those events, we not only have the political leaders with respect to municipalities, but all the important business men in the Long Island area.

Q Now, was there a practice that requests came into the bank from groups other than political groups to attend dinners and functions?

A Most of the requests came in from non-political groups.

In other words, we'd get everybody that wanted to run some sort of a business or a social or a charitable affair or a municipal affair and where they wanted business men to attend, they would pick on the banks, as one of the most likely targets, because they knew it was to our interest to attend those events and they could always count on us for some participation.

Q To whom would those requests from these non-political groups come to?

A Most directly to the branch manager.

Q What would the branch manager do?

A He'd review it and if he felt it was worthwhile for the bank to have him attend, then he would indicate his comment on the approval form and he would forward it to the responsible officer. In most of the years, it would be Mr. Chadwick. He reviewed those forms and if it was in the prerogative of the bank manager to approve it, under a $100 -- he would --

Q Suppose it was a large amount?

A He would send it to Mr. Chadwick, Mr. Chadwick would have to get the approval from one of his superiors. At this time it would have been Mr. Casey, his immediate superior, Mr. Dutra if he had to go above him or if Mr.Dutra were not available or myself, and if we didn't have a prescedence established, he would go to Mr. Travers or Mr. Clifford if necessary.

Q What was the criteria that the bank used for the purpose of determining whether they would accept a request for a non-political function?

A It would be to what benefit would accrue to the bank if we attended, benefits in terms of ultimate earnings to the bank.

Q In other words, this was a -- withdrawn.

Did it relate to profitability?

A Profitability in dollars and in terms of public relations and the community image and good will.

Q Have you told us in essence the means by which the bank attracted corporate accounts?

A Yes, sir.

Q Did the bank also involve itself in making loans to these corporate accounts?

A Oh, yes. Remember a bank has not only to bring the deposits in, but has to put them to work and loans are a very profitable place to put deposits to work.

Q This was through commercial loans?

A That was through commercial loans.

Q And the bank received interest on those loans?

A Yes.

Q And is that how the bank earned its profits?

A How we earned a good portion of our profits, other than interest fees, and investments.

Q Tell the court and jury what the processes were at the bank with regard to municipal accounts, as distinguished from corporate accounts?

A It would be basically the same program, the same kind of concern, the same kind of identifying who the municipalities were, assigning some one to call on them, making sure we

attended the events where they would be the same type of process. We really didn't distinguish between municipal and corporate, other than that municipal represented a more identifyible group that you could identify other than corporate.

Q Tell the court and jury in your own words the type of municipal accounts that were attracted to the bank, let us say during these two years that the chart relates to 1969 and 1970?

A Well,for instance we try to do as much as we could for the United States Government, because that was always a good source of the deposits. We sold E Bonds. All the proceeds of the E Bonds went into the Government's account. We solicited New York State for some of their deposit accounts. There is a cigarette tax account and one bank has to be designated as the depository for all of the cigarette taxes. In cases of the County, we made a strong effort to get the major county accounts. All of them take a lot of service, a lot of cost, but they are all in the long run profitable.

In the case of the towns, there would be the same type of consideration. The school districts are a very important source of funds, because the school budgets on Long Island are getting astronomical and a substantial amount of money flows through these accounts and at the same time municipalities have to borrow money, so it gives us a place to put our money

to work.

Q You have mentioned now the United States Government, the State of New York, counties, towns, school districts Can you recall any other type of municipal accounts?

A They are miriad.

Every library district -- every library system has an account. Every fire district, every water district,. There was something like 350 municipalities on Long Island and all of which represented good potential sources of business.

Q And during the time that you were at the bank, were there any competition between or among the banks, doing business on Long Island for obtaining the corporate accounts?

A Long Island has always been a competitive area. We always had the major New York banks and of course the larger Long Island banks, the Franklin, the National Bank of North America, Long Island Trust. It was healthy to the community, but it was competitive for the banks.

Q All the banks were competing or fighting to get these commercial accounts; is that correct?

A We all had to compete in terms of loan rates. The lowest rate one. If we were paying interest to a school district, whoever was paying the higher interest one.

Q Let me take the municipal accounts separately. Let us confine ourselves to the commercial accounts

Were there any competition among the various banks on Long Island to obtain for themselves those commercial accounts?

A Just as we had been calling on every good commercial customer, every other bank would be calling on the same fellow.

Q And now with respect to municipal accounts, was there a similar competitiveness among the banks doing business on Long Island for municipal accounts?

A Just as competitive, if not more so, as the corporate.

Q You told us that the bank rendered services to corporations, companies, partnerships if they became customers of the bank.

What services, if any, did the bank render to Municipalities?

Tell the court and jury in your own words what servicesthe bank made available to those customers?

A Firstly, all Long Island municipalities, had to have a checking account, because they all paid their bills bycheck.

Secondly, they needed a place to put their money. All the tax receipts had to be deposited some where. That was a process of accepting the payment of taxes and putting them into a bank account and paying out on that bank account by the munic-

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ipalties.

Then there was the time when municipalities had extra money and wanted to get interest and they would ask us to pay interest on the deposits, whether a savings account or a savings certificate.

By the same token, municipalities would run short of money and they would have to borrow on a short term basis and again they would go to the banks and ask them to bid on the municipal notes and whoever bid the lowest on the notes won it. Who ever bid the highest on the interest won it. It was very competitive and very healthy and I think for a long time the tax payers of Long Island got a break because of this competitive attitude.

Q When you say "whoever bid lowest on the notes" would you explain that to the jury?

A If the county of Suffolk wanted to borrow ten million dollars to tie itself over to the next tax period they'd ask the banks in Suffolk county to bid on their obligation.

Q Was this something that was done publicly, that all the banks knew about?

A Yes.

If the going rate were 5% and most of your competitors did 5.1% and you bid 4.9, then the bank that bid 4.9 got the note.

Q This was the interest that the county would pay to the bank for borrowing the money?

A Right.

Q The banks competed with the interest rates that the municipalities had to pay on short term money?

A Yes.

Q You mentioned something as to interest?

A Yes.

Q When did the bank pay interest to municipal accounts or customers?

A If a municipality sold a bond issue, that they were going to build a school, and that bond issue sold, they might have a million or ten million dollars but they would not have to start work on the school for some time, say a year or two, so during that period they would put the proceeds -- the ten million dollars -- out for bids to the bank that would pay the highest rate of interest during that period.

Q Was this also done publicly?

A Yes.

Q So every bank knew that the county of Suffolk had money available for a deposit to get interest?

A Yes.

Q Then what happened, all the banks would compete?

A Whoever was willing to pay the highest price.

that bank got the certificate -- paid the interest on the certificate of deposit and got the use of those monies from the county for that period of time.

Q Now, there has been used in this trial the term "time deposits" and "demand deposits".

A Right.

Q Very very simply in your own words, explain to the court and jury what those words meant withrespect to what you were doing and what the Security National Bank was doing with regard to both corporate accounts and municipal accounts?

A Time deposits were those deposits that the municipality had no immediate use for, which they put out for interest, and that was good business for the municipalities.

The bank depositors were those that they wished to keep available to be able to pay out on demand.

For instance, if a receiver of taxes collected all our tax bills, they knew that they had to pay out within 15 days from the end of the tax period to the county. They would accumulate all those dollars in a demand account, because they had to pay it out on demand to the county at the end of the 15 days, and they would write a check out. All the money would go out of our bank and go to the county.

(continued next page)

Q Now, you told us of services that the Security National Bank rendered to its corporate accounts.

Were these services also made available to municipalities?

A Yes.

Q Checking accounts?

A We had payroll accounts, and payroll services.

Q What was a payroll service?

A For instance, we offered to pay the schoolteachers or municipal employees or village employees.

In other words, we would take the responsibility of executing or computing how much they had to pay their individual employees and writing out the checks and writing out the stubs, and forwarding them to the school district and the school district would hand the checks out the employees.

We would take care of the payroll accounting aspects.

Q The bookkeeping the bank absorbed?

A Yes.

Q Were there any other types of services you made available?

A The account reconciliation which was reconciling the checks. When they came back to us with the stubs, and that is very time-consuming to match them up, we would do that for them also.

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Q During the period of time that you were at the bank and requests came in either from politicians or from commercial people to attend a function, what was the criteria or what the basis for approval that was employed at the bank, to your knowledge, to determine when and where to attend the function?

A Solely the benefits to the bank and those benefits again were the actual profitability, earnings on relationships for goodwill that we would engender in the community.

Q Were there times that customers came into the bank for a ticket to a charitable affair?

A I don't think a day goes by that someone does not come in to ask for something in the way of contributions.

Q There is testimony as to the money the Security National Bank expended during 1966 to 1974, and I think Mr. Katzberg produced a chart. Do you recall Mr. Chadwick testifying?

A Yes.

Q Do you recall Mr. Chadwick testifying that in his opinion the expenditure by the Security National Bank for charitable business and civil contributions was two hundred to three hundred thousand a year?

A Yes.

Q What is your estimate of that, sir?

A I would say that is approximately accurate.

Q So that --

A It was never less than two hundred thousand to my knowledge considering the attending of events as well as direct contributions.

Q Taking the six years that you were at the Security National Bank from 1966 to 1972, can you estimate to the Court and jury the amount of money that the Security National Bank spent on the non-political functions?

A I am sure in excess of one million dollars.

Q Was all of this money, this million dollars, for non-political events spent under the supervision of the Marketing Department during the time you were with the bank and heading the Marketing Department?

A Yes, that is not just the business and trade events.

Q Yes, the chart covered a longer period.

It covered 1966 through 1974, as I recall.

A Yes.

Q You are talking about 1966 through 1972, the period in which know one million dollars was spent for these non-political functions.

A Yes.

Q During the period of time you were involved with

the bank and the Marketing Department attracted these accounts, was there an increase to your knowledge in the overall bank deposits?

A Yes.

Q During the period from 1966 to 1972?

A We went from three hundred million dollars to one billion five.

Q Was there also an increase in the municipal deposits?

A Yes, from one hundred million to about close to four hundred million.

Q I show you a group of papers marked Defendant's Exhibit JJJ in evidence, published financial statements of the bank.

MR. COHN: Your Honor, may I use the blackboard to make notations?

THE COURT: Yes.

MR. COHN: May I have the clerk assist me?

THE COURT: Yes.

MR. COHN: I think I can write large enough so the jury can see from here.

Q Mr. Dowd, I want to look at that exhibit that you have and would you agree with me that this covers the period during which you were with the bank from '66 through '72?

A It covers a year after we were though, the end of '66, not the beginning.

Q The year ending December 31, 1966, to the year ending December 31, 1972?

A Yes.

Q What I would like you to do is this: I want to take a year and I want to take the total deposits and I want you to take the municipal deposits for the year ending 1966 and round off as best you can these figures so I do not get involved with too many numbers.

What do you find was recorded to be the total amount of deposits held by the Security National Bank?

A Four hundred fifty-seven million.

Q Of this, how much were municipal deposits?

A Seventy-two million.

Q Now, in 1967 what were the total deposits?

A Five hundred sixty-six million.

Q What do you find to be the municipal deposits?

A 101 million.

Q This 101 million is included in the 566?

A Yes.

Q The difference between 101 and 566 would be the difference between individual and commercial deposits?

A Yes.

Q 1968, what do you find the total deposits of the bank to be?

A 764 million.

Q Of these total deposits, how much were municipal deposits?

A 149.

Q By the way, these included time and demand deposits?

A Yes.

Q All deposits?

A Yes.

Q In 1969, give me the figures.

A 788 million of which municipal was 116 million.

Q Let us take 1970.

A The total is 968.

Q May I have the municipal deposits?

A 243 million.

Q In 1971?

A One billion one hundred seventy-eight million.

Q Of this one billion one hundred seventy-eight million, how much were municipal deposits?

A Three hundred twenty-six million.

Q In 1972 what were the total deposits of the bank?

A One billion seven hundred thirteen million.

Q What of this one billion seven thirteen million were the municipal deposits?

A 408 million.

Q Thank you.

During the period from '68 to '72 when you were in charge of the Banking Division and had under your supervision the Marketing branch and Development and opened up these new branches, the total deposits of the bank, were they generated by your department?

A I would not say that.

Q The new business?

A It was generated by all officers of the bank under the leadership of Mr. Clifford.

Q During that period, the total of deposits went from 764 million to 1 billion, 713 million?

A Yes.

Q It increased about one billion dollars?

A Yes.

Q Municipal deposits went from 149 million to 408 million, increasing about 250 million?

A Yes.

Q By the way, Mr. Dowd, could you estimate for us to the best of your ability, during the period from '68 to '72, while you were heading up this banking department, which

included the Marketing Department, what percentage about of the total effort of all the people under you went to the development of municipal business?

A About 25.

Q About how much of the time was devoted by the people under you to development of new commercial business?

A Probably 25.

Q And for the development of individual business, new individual business?

A Probably 35.

Q And for the development of new branches?

A The remainder.

Q About 15%.

What, if anything, were the guidelines in effect from '68 to '72 when you were employed at the bank for determining what and when political contributions would be made?

A Simply the benefits to the bank in terms of the earnings to the bank.

Q Profitability?

A Yes.

Q Was influencing an election ever a factor in making such a contribution?

A It was never discussed or considered.

Q Was influencing an election ever discussed by

anybody at the bank that you know of?

A No.

Q Did you ever discuss it with anyone?

A No.

Q Was influencing an election ever an object or purpose for making a political contribution by the bank?

A No.

Q During the period of time -- withdrawn.

Was the political contributions system from '68 while you were heading up this Marketing Department handled by and was that a function of your department?

A Yes.

Q Even though Mr. Dutra was involved and Mr. Casey was involved, was it done under your supervision?

A I am completely responsible for any of their actions in terms of the political contributions program.

Q You are not passing the buck to anybody, are you?

A No, I have no reason to.

Q Do you know Joseph Dutra?

A Yes.

Q To your knowledge, when did he come to the bank?

A I believe the beginning of '69.

Q Do you know what Mr. Dutra's background was at the time he came to the bank?

A He had been in charge of the Long Island Trade Association, Long Island Chamber of Commerce.

Q Was he a banker when he came to the bank?

A No.

Q You assigned him to head up the Marketing Department; is that correct?

A Yes.

Q Was that the department that supervised the political contribution program?

A The Marketing Department was the overall organization of which Business Development was a sub-function and a sub-function of that was the political contribution program.

Q Was it also the function of the Municipal Development Department to develop business other than political accounts of municipal accounts?

A No, municipal business development function was strictly with municipalities.

Q Was there also a general Marketing Department?

A Yes, broken down into several components. First dealt with advertising and --

Q May I interrupt.

Will you step down from the witness stand and come down to this chart and show the Court and jury where the Marketing Department shows up in this chart, what they did

and how it was broken down and where the municipal department shows up in that chart.

THE COURT: You may step down.

(Continued next page)

THE WITNESS: Mr. Dutra took the responsibility because of his very innovative abilities and under him he had the functions that you normally think of in marketing. He did all the advertising, that is how we got most of the individual business.

Q Was that the general advertising throughout the year?

A All the ads in the papers.

Q All the ads in the political journals also?

A Yes.

The public relations department concerned itself with annual reports, dealings with shareholders and presentation to the financial community, and underneath them was product planning development and theyhad all the promotions, the giving of gifts, washing machines -- oh, no, - we didn't give washing machines, coasters and blankets and so on.

Q The cheap stuff.

A The branch of development department was concerned basically with all the new branches, finding branch sites for 60 different branches. They also came over with some of the new services that wemight put on and that basically was the marketing department.

Then under that was the business development functions which Mr. Casey ran and they were concerned with getting sales-

men out to bring in business. They tried to motivate managers to get business.

Q They were salesmen for commercial accounts and municipal accounts?

A Yes.

Q Do you know of or have you heard of an organization called the Long Island Public Affairs Club?

A Yes.

MR. COHN: If Your Honor please, it is my intention to offer a document in evidence. I believe the Government may have some discussion on it --

THE COURT: All right. We will take a recess now.

(The jury withdrew from the court room at 3:40 PM. and the following occurred out of hearing of the jury.)

MR. COHN: It is my desire to offer in evidence a document which is an inter-office memorandum from J.F. Dutra, Jr. to D.E. Driscoll who has been identified in this trial as house counsel to the Security National Bank, whom I believe was a -- well was on Mr. Shea's payroll. Mr. DeGennaro told me on cross-examination that that was none of the documents he turned over to the United States Attorney that was found in the files of

house counsel at the Security National Bank and that is how the Government got a copy of that document. I purpose to elicit from the witness and make the following offer of proof: The witness will testify as to the events leading up to Mr. Dutra's involvement in the overall supervision of the political contribution program.

He will also testify there came a time when Mr. Dutra proposed the establishment of a new form of political contributions program other than that previously maintained under what we have come to call the Betty Jaeger Program.

The witness will testify he discussed this with Mr. DeGennaro and obtained his approval and instructed Mr. Dutra to go ahead.

He will testify the memorandum which I propose to offer was a document he had seen, discussed it with him and submitted by Mr. Dutra to Mr. Driscoll after he had shown it to Mr. Dowd and Mr. Dowd authorized it to be submitted to Mr. Driscoll.

Under those circumstances I believe a proper foundation will have been laid for the admission of this.

It is a document between Mr. Dutra under Mr.

Dowd and by counsel for the bank in reference to the Long Island Public Affairs Club.

In the cross-examination of many of the Government witnesses, Mr. Katzberg asked them whether they knew they were members of the Long Island Public Affairs Club and some, in some instances they denied it. He offered in evidence their checks made payable to Betty Jaeger endorsed by the Long Island Public Affairs Club.

Under those circumstances I feel that it is proper to be introduced into evidence.

MR. KATZBERG: The document was not obtained from the Shea firm, but from the files of Mr. Driscoll, the in house counsel.

Mr. Driscoll was not told anything about the club. He was told by Dutra that the Long Island Public Affairs Club was intended to be a lobbying group.

Secondly, the document is clearly hearsay and not in furtherance of the criminal conspiracy.

On those grounds it is not admissible.

MR. CORN: It refers to requests disclosed to counsel.

MR. PATTISON: It doesn't come under the rule.

THE COURT: Itdoes not come within the rule of

conspiracy, but it comes under the rule that --

MR. PATTISON: Mr. Dowd is allowed and he is telling what he knew when he knew it and what he was told and what he told others, but he has every right to show that. He does not have a right, however, to offer in evidence from another witness who is not a witness, neither the person who wrote that memo, nor the person to whom it was sent to.

THE COURT: Driscoll was not a witness.

MR. KATZBERG: Nor was Mr. Dutra. It is Mr. Dutra's hearsay statement to Mr. Driscoll being offered to prove the contents.

MR. COHN: Mr. Dutra is an uninvited co-conspirator.

MR. PATTISON: Only if you say this is a statement made in favorance of a conspiracy.

MR. COHN: We deny any conspiracy.

MR. KATZBERG: It does not fall within any exceptions of the hearsay rule.

THE COURT: I do not follow the negative portion of your statements. You say there was a conspiracy and no one is allowed to show there wasn't a conspiracy?

There are always two sides to an issue in a case. The reasons for defense is to show what they are saying

is not in fact so. If they say we have never been part of a conspiracy and they have some proof of it I would be remiss in my ruling in not permitting it to be put in evidence. That is my common sense.

MR. PATTISON: The apparent difference between what the Government may offer, statements of a member of a criminal plan made in the course of that plan and made to further that plan is clear. It has always been held to be one narrowly drawn exception to a general rule. Hearsay does not come within it.

THE COURT: I am not disputing that.

MR. PATTISON: The fact that the same evidence is sought to be used to show that a conspiracy did not exist -- in other words --

THE COURT: I think our choice of words are wrong. Rather than show a conspiracy did not exist, I think the words are wrong. I assume the reason they want to introduce the statements to indicate the parties or persons who might have the knowledge of it is one reason and number two it isn't a question of excluding, but affirmingly stating that they were going to hold the Long Island Public Affairs Club and these are their members.

You cannot do that.

MR.PATTISON: Yes, but Dutra can.

THE COURT: Dutra is the only one. You have Mr. Dowd's name on it. There is no reason why you can't show him that piece of paper and ask him do you know anything about this.

MR. PATTISON: He may be shown it and he may then say what if anything he knew about the subject matter of that memo. That doesn't mean the memo comes in.

THE COURT: I will reserve decision on it and when I come out I will give my answer.

MR. COHN: Mr. Dowd will testify he was shown that.

THE COURT: I understand.

MR. KATZBERG: That letter is hearsay of Mr. Dutra. Dutra cannot be confronted.

THE COURT: But the confrontation is the right of a defendant to be confronted.

MR. KATZBERG: The Government has the same right.

THE COURT: You have a right to subpoena Mr. Dutra.

MR. KATZBERG: Mr. Dowd can't --

THE COURT: If Mr. Dowd adopted it why can't he say so. You have a right on cross-examination to go into it.

MR. KATZBERG: It is the truth or falsity of the contents alleged in the document.

MR. NAFTALIS: We would like to refer you to Rule 804B5 of the New Federal Rules.

THE COURT: All right. I will reserve decision and I will have my answer when I come out.

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THE COURT: Do you want to argue it?

MR. KATZBERG: I think we made our points.

THECOURT: I am goingto admit it on the further ground that one of the contentions here is the illegality of a scheme, design or plan by the defendants. This does show there is a plan and it becomes a question of fact for the jury whether it was a valid or an illegal plan.

MR. KATZBERG: Our only point is that the document itself is clearly hearsay.

THE COURT: It is clearly hearsay under the circumstances, but it goes to some probitive value as to whether the plan was legal or illegal.

MR. KATZBERG: We have no desire to belabor the point. We wanted to make our point.

THECOURT: You must lay a foundation. That is the Court's ruling.

MR. BANNIGAN: For the record, may I just add the view of the defendants is that it is clearly admissible under Rule 804(b)(5).

THE COURT: I hate to disagree with you, but I do not find it applicable to this at all.

MR. BANNIGAN: I think it is.

THE COURT. That is what makes lawyers, the

difference in opinion as to how to read the law.

(Jury present.)

BY MR. COHN:

Q Mr. Dowd, did there come a time when you assigned to Mr. Dutra the additional responsibility of handling the officers' contributions program on a day-to-day basis?

A Yes.

Q Was there still during the time that the Betty Jaeger fund, that we have come to call it, was still in existence?

A Yes.

Q And that he ran the Betty Jaeger fund at that time?

A He didn't run the fund. Mr. Powell supervised Miss Jaeger, he superfised -- he made sure that when the requests came in, that they were properly approved by the manager, that he concurred in the wisdom of attending the event or if it had to be approved by a senior officer, he obtained the approval and he arranged for Betty Jaeger to issue the check and obtain the tickets.

Q Now, did you give these instructions on how to handle the payout for political contributions that you described?

A Yes.

Q Did you nevertheless still retain over-all jurisdiction over Mr. Dutra?

AY Yes.

Q Now, did there come a time when you had a conversation with Mr. Dutra concerning the establishment of a new fund or new system?

A Yes.

Q Give us your best recollection as to when that time came.

A It was probably at the beginning of 1970.

Q Who was present at this conversation?

A Just he and myself, I believe.

Q Tell the Court and jury what Mr. Dutra told you at that time and what you told Mr. Dutra.

A Mr. Dutra said he had previous experience in managing a fund such as this in the form of a good government fund and he felt that we should really turn the officers' contribution fund into a good government fund and that we should have not only the employees of the bank, but others contributing towards it as well and after we had much discussion I said that I would take his recommendation of a change in format to the management committee whereby instead of it being the officers contributing to the Betty

Jaeger fund, that we'd accept the idea of forming a Long Island public affairs fund and we'd ask the officers contributing to become members of that fund and to contribute to that fund as they did to the Betty Jaeger and that fund would purchase tickets to various events.

Q Did you then take this to the management committee?

A Yes.

Q Did you explain what wai proposed to the management committee?

A Yes.

Q What if anything -- withdrawn.

Who was present at the management committee meeting at that time?

A I believe all the senior vice presidents and the president and chairman.

I am not sure if all were in attendance at that meeting.

Q But this was the management committee as it was composed in the early part of 1970?

A Yes.

Q Did you disagree with Mr. Dutra's suggestion?

A No, I thought it had merit.

Q Then you took responsibility of bringing it

to the Management Committee?

A Yes.

Q Any action taken by the Management Committee to your knowledge?

A They approved it and I think we published a bulletin on it.

Q Were you given any instructions --

THE COURT: Just a moment.

MR. KATZBERG: Could we find out who was involved in the conversation?

Q To the best of your recollection, in the early part of 1970, tell us who you recall being present at this Management Committee meeting where you discussed this program.

A I am really not sure, sir, who was there.

Q Give me your best recollection.

A I know myself was there. I believe Mr. Dutra was with me and I am sure it was at one of the regular Management Committee meetings. That would have included Mr. Clifford, Mr. Travers, Mr. Powell, Mr. McCabe, Mr. Bradley. All the senior vice presidents on this chart. I do not know which were in attendance at that particular meeting.

Q But these were the people who were officially part of the Management Committee at that time?

A Yes.

Q But do you have any distinct recollection as to whether each and every one of them were present?

A No.

Q Were you given any instructions by the Management Committee at that time as to what you were to do with this program?

A Yes, to come to think of it Mr. Clifford must have been there because he said he would go along as long as we cleared it with counsel.

Q By counsel, who did you understand he was referring to?

A The Shea firm.

Q What if anything did you do with respect to having this program cleared with counsel?

A I called Mr. DeGenaro and I told him that Mr. Dutra wished to make a change in the political contributions program, that he wished to form a Long Island public affairs club, and that club would ask the contributees to become members, and we'd elect officers and we'd have any requests for tickets paid for by that club.

Q And what if anything did Mr. DeGenaro say to you at that time?

A He asked me would there be any change in the guidelines that he had given to us previously and I said,

"No, the only difference would be that we'd be substituting the Long Island public affairs club for the Betty Jaeger fund."

Q Then what did Mr. DeGenaro say if anything?

A As long as there is no changes in the over-all guidelines he had given to us, he saw no reason why we could not adopt that format.

Q Was it contemplated to change any of the guidelines that you told us Mr. DeGenaro told you about before and you employed in the Betty Jaeger fund?

MR. PATTISON: Objection.

THE COURT: Sustained. That covers a multitude of questions.

MR. COHN: I withdraw it.

Q What in essence was the difference, as you understood it, between the way the Long Island public affairs club would operate and the way the Betty Jaeger fund had been operating until that point?

A Nothing except we'd have a formal club format for membership instead of just an officers' fund.

Q Was it contemplated that this would be a separate-independent club --

A Yes.

Q -- with separate officers and separate

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members?

A In fact Mr. DeGenaro told me to have Mr. Dutra get in touch with Mr. Bart Driscoll, who was the in-house counsel for the bank, to review with him the formation of the club.

Q Did there come a time when you and Mr. Dutra had a conversation concerning his getting in touch with Mr. Driscoll?

A Yes, I called Mr. Dutra and told him that I had spoken to Mr. DeGenaro and he had cleared the concept, but asked that Mr. Dutra get in touch with Mr. Driscoll and review with him how we proposed to form the club.

MR. COHN: May I have this paper marked for identification?

THE COURT: Mark it.

THE CLERK: One-page document marked for identification as Defendant's Exhibit PPP.

Q Mr. Dowd, I show you Defendant's Exhibit PPP for identification and will you just tell us whether or not you recognize that paper?

A Yes.

Q Do you recognize this to be a copy of a paper that you have seen?

A That's a copy of --

Q Just tell us, without describing the paper for the time being.

A Yes.

Q When did you first see that paper?

A Mr. Dutra showed this to me in rough form before he finally sent it out.

Q Did you have a conversation with Mr. Dutra concerning that paper or the forwarding of that paper?

A Yes.

Q What was that conversation?

A He said would this be in the format of what he should present to Mr. Driscoll and I concurred with it.

Q You approved the paper?

A Yes.

Q And did you approve his forwarding the paper to Mr. Driscoll?

A Yes.

MR. COHN: At this time I offer it into evidence.

MR. PATTISON: May I see it?

(Shown to counsel.)

MR. NAFTALIS: No objection.

MR. PATTISON: No objection.

MR. BANNIGAN: No objection.

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THE COURT: Mark it.

THE CLERK: Defendant's Exhibit PPP received in evidence.

Q Now Mr. Dowd, this is an interoffice memorandum of J. F. Dutra, Jr., VP to B. E. Driscoll, attorney?

A Yes.

Q Who was Mr. Driscoll at that time?

A He was the in-house counsel, the lawyer at the bank who handled the routine legal problems and was employed by the Shea firm.

Q He was paid by the Shea firm?

A I believe so.

MR. COHN: May I read this document to the jury?

THE COURT: Yes.

MR. COHN: Ladies and gentlemen, I want to read to you this document. It is a copy of the original. It says, "Interoffice memorandum from J. F. Dutra, Jr., VP, to B. E. Driscoll, attorney," and it is dated March 27, 1970, and the "Subject Long Island public affairs club:

"With the concurrence of the bank's counsel and agreement of members of senior management, I would like to form the Long Island PUblic Affairs

Club whose objective will be to encourage participation by officers and employees of the bank in public affairs. The officers of the club are as follows: Joseph P. Dutra, Jr., president, Thomas J. Casey, Vice President, David J. Dowd, SEcretary, Frank B. Powell, Treasurer.

"The members of the bank are:"

Then there is an enumeration and I would like to read that to you. I think most of the names are familiar to you by now.

"George Barrie, Robert Bradley, James Brogan, George Brooks, P. J. Clifford, Van S. Darling, Charles Dickerson, David Dowd, Joseph Dutra, John Fretz, Vincent Garvey, Harold Guthlien, Milton Gidge, Winston Hart, Charles Humphrey, Bernard Knoess, James Lamberton, John McCabe, Harry Melsha, Edward Mertz, David Milford, Frank Powell, William Sly Charles Saunders, Earnest Slade, Samuel Spitzbart, Robert Vandermark.

"Could you find me a simple set of by-laws which I can use to formalize this club structure." Singed"J. D. Dutra, Jr."

(continued next page)

HS:cp
3pm/2

Q Now Mr. Dowd, did there come a time that a bank account was opened up in the name of the Long Island Public Affairs Club?

A I believe so.

Q And do you recall signing signature cards authorizing checks to be issued on the signature of certain people?

A Yes.

Q Was your signature one of the signatories on that card?

A Yes.

Q And did there come a time that checks -- did there come a time that there was actually a bank account opened at the Security National Bank under the name Long Island Public Affairs Club?

A I believe there was.

Q Were there checks written against that bank account from time to time?

A Yes.

Q And was Betty Jaeger one of the persons who signed such checks?

A Yes.

Q Did you sign such checks?

A Yes.

Q Do you recall signing such checks?

A I believe there were a few occasions when she must have been out when I signed the checks.

Q You don't deny that you signed checks drawn on the Long Island Public Affairs Club?

A No, sir.

Q Were these checks that Betty Jaeger signed for the same purpose as the checks she signed when she had the Betty Jaeger fund?

A Yes.

Q These were for these political functions, the tickets, the journals and whatever else shows on her checks?

A Yes.

Q And the checks that you signed, sir, under the Long Island Public Affairs Club, were those for similar purposes?

A Yes.

Q Now, do you know whether or not formal by-laws and a formal organization of the Long Island Public Affairs Club was ever completed?

A I don't know, sir. I don't recall.

Q Again, to refresh your recollection, you will note from Exhibit PPP the date is March 27, 1970. Did there come a time, Mr. Dowd, that your Long Island Public Affairs Club was terminated?

A Yes.

Q Would you tell the Court and jury how it came about that the Long Island Public Affairs Club was terminated?

A I believe it was in December of 1970, Mr. Powell came into my office and said that he had been reading a Wall Street Journal article and he had been speaking to Mr. DeGennaro about this article, and that Mr. DeGennaro was going to call me shortly about it.

MR. KLEIN: May I ask Mr. Katzberg if he has the Wall Street Journal article handy, otherwise I will use my copy?

(Document handed to Counsel.)

May I speak to Mr. Katzberg for a moment?

(Pause.)

Mr. Katzberg, will you agree with me, sir, that there is appended to Defendant's Exhibit LL a copy of the Wall Street Journal article which is also Government's Exhibit 130?

MR. KATZBERG: Yes.

Q. Mr. Dowd, will you please take a look at this Wall Street Journal article and do you recall Mr. DeGennaro testifying that it was filed in his office sometime in July of 1970?

A Yes.

Q Can you tell us now with more precision approximately what it was that this article was called to your attention by Mr. Powell?

A This must have been done in July of 1970.

Q Did you have a conversation with Mr. DeGennaro concerning the Wall Street Journal article?

A No sooner had Mr. Powell left my office than Mr. DeGennaro was on the telephone and he began the conversation --

Q Tell us exactly what you recall Mr. DeGennaro told you about this Wall Street Journal article and what you told Mr. DeGennaro?

A He started the conversation by saying: "Let me understand, you gave a group of officers seventeen hundred dollar increases a couple of years ago and they are contributing how much to this fund?"

I said, "One hundred dollars a month."

He said, "You are making payments out of this to buy the tickets and the political -- making the political contributions upon?"

I said, "Yes."

He said, "Well, I have been discussing this with the members of my firm, and we do not feel that you should be paying the checks out of this fund."

He said, "It has nothing to do with this Wall Street Journal article Mr. Powell just called me on."

I said, "I have gone over that."

He said, "What it does concern is this matter of voluntariness. We ask that you have the officers of the bank voluntarily contribute the hundred dollars every month to the fund."

He said, "I want the officers of the bank to buy these tickets and make these contributions out of their own checking accounts."

He said, "I don't want a centralized fund."

He said, "I don't mean it is illegal. I think it just gives the wrong effect, people are going to misconstrue it. I want you to change it. From now on I would like you to have any contributionss made by the officers themselves."

I said, "That's going to make an awful administrative problem to us. Do we have to really do it?"

He said, "Yes, we have discussed it among the members of the firm and we strongly advise you that this is the right way to do it."

I said, "Well, if you are telling me as a matter of law that that is the right way to have the individual officers write out their checks for the contributions, then fine."

I said, " I will simply change it, and we will go to that format."

Q Prior to that time, that you had this conversation with Mr. DeGennaro, was there a practice where the individual offices wrote out their own checks to a particular political group or to a political function?

A Not unless there was some personal reason why they wanted to do so. Normally all the contributions went to one fund, the Betty Jaeger or the Long Island Public Affairs Fund, and it would be paid out of that central fund. This was a switch in that now all of the contributions were to be made by the individual officers out of their own checks.

His theory, as I recall, was they received their raises, all the monies were there, all the bank had was a right to call on them for contributions, and the fact that they didn't contribute regularly but you could call on them to buy a ticket, made it a greater indication as to the voluntariness of the fund.

Q Was this the first time that Mr. DeGennaro or any lawyer told you that the officers who participated in this program should write their own checks directly to the recipient --

A Yes.

Q -- rather than to make a check payable to Betty Jaeger or to the Long Island Public Affairs Club?

A Yes.

Q Did you accept Mr. DeGennaro's legal advice?

A Whenever a lawyer speaks that strongly on a matter and he seems qualified, I'll accept it and I accepted it then.

Q As a result of that conversation that you had with Mr. DeGennaro, what, if anything, happened to the Long Island Public Affairs Club?

A I first checked with Mr. Clifford and said that Mr. DeGennaro wanted to make an administrative change in the program and he said, "Fine, if that's what the lawyer recommends." And I called Mr. Dutra and I told him that I was sorry that the Long Island Public Affairs Club that he worked on so hard does not meet the requirements of the lawyers and they wished us to discontinue it and they want all contributions to be made by individual checks of the officers.

Q Did you discuss with Mr. DeGennaro the bookkeeping problem that would be involved in changing the method of making the payments?

A He pointed out to me, as I did to Mr. DeGennaro, that we were making for an administrative nightmare. He said if we have to do it, we have to do it.

Q When you wrote to Mr. Dutra and told him that the Long Island Public Affairs Club would be terminated, what did Mr. Dutra say to you?

A He said he would discontinue the club, close the account and from now on he would have all contributions and tickets paid for by the individual officers.

Q Did he tell you how he felt about the fact that the Long Island Public Affairs Club was being terminated?

A He obviously was sorry that we had to discontinue the format.

Q Did he tell you that?

A Yes.

Q By the way, we have established, have we not, that Mr. Dutra had been contributing to this fund; is that correct?

A Yes.

Q Did Mr. Dutra receive a raise in connection with his contributions to the fund?

A No, sir.

I felt that he was reasonably well-paid and that he was in charge of this function -- it was one of his sub-functions, and there was no financial burden on him to make the contributions without an increase.

Q Did Mr. Dutra ever ask you for an increase?

A Not at that time.

Q At any time?

A At the end of the year when we reviewed his

salary, he felt that he was doing a good job and wanted to be considered for an increase.

Q Did he get an increase?

A I believe he did.

Q And that was after he joined the club?

A It had nothing to do with the club.

Q Did Mr. Dutra in all of the time that he was employed under you at the bank ever tell you that he was coerced or had been intimidated by you or by anybody else to join the club?

A Never.

Q Did Mr. Dutra ever complain that this was not a voluntary act on his part?

A No, sir.

Q Did Mr. Dutra ever come to you and tell you that he wanted to withdraw from participation and stop his contributions?

A No, sir.

Q Did you ever threaten Mr. Dutra with job discrimination or financial reprissal at the time you asked him to join the club?

A No, sir.

Q Let me take you to a new area. Do you know Mr. Casey?

A Yes.

Q Tom Casey?

A Yes.

Q Tom Casey whose name appears as one of the officers that worked under you?

A Yes.

Q Did there come a time when Mr. Casey became involved in the administration of this political fund?

A Yes.

Q Was this after the Long Island Public Affairs Club was terminated?

A Yes.

Q And after that new system was originated at the bank?

A Yes.

Q And tell us how the new system worked?

A Under the new system -- let me explain:

Mr. Casey had been hired at the beginning of 1970 to run business development. He had a background as a lawyer. He was a successful politician and experienced banker.

As part of the business development function, we had the municipal development function under Mr. Hart and the Meeting Events section in which we put Mr. Chadwick. It seemed illogical to ask Mr. Casey to take over the day-to-day

supervision of the contributions program in the same manner I had given it to Mr. Dutra. His responsibilities became broader and Mr. Casey seemed well-equipped and appropriate to give it to him. Under that new system, what we did was simply have the officer in charge of his assistant -- and this case around the ti[illegible] y[illegible] are talking about Mr. Casey kept a list of all the officers that were willing to contribute and kept a list of how much he felt we agreed that they would contribute each month, a hundred dollars, and he put down the name of the officer and the hundred dollars he was contributing. Then as we got a request for tickets, Mr. Casey would call the individual officer -- let us say, we have to buy three tickets to a golf outing for the Suffolk County Republicans -- Mr. Casey would pick the three names on the list who had been expected -- announced they were willing to contribute a hundred dollars, who received an increase or were willing to join, and called these three officers and asked of them would they write out a check of a hundred dollars to the Suffolk County Golf Outing, or if there was an officer that had not contributed for three months he would ask that one officer to write a check for $300 to the Suffolk County Gold Outing.

(Continued next page)

Q And the officers would write their checks?

A Send it to Mr. Casey, and Mr. Casey would either give it to the manager who requested the check or forward it to the political organization and when he received the tickets, forward the tickets, to the manager who would distribute it to those going.

Q Mr. Casey would personally call the different offices?

A He has to call the offices each time we got a request and he quickly became tired with that.

Q How long did Mr. Casey do this, to your knowledge?

A Probably not more than a month or two.

Q Then what happened?

A He said he needed help and he asked if he could have a clerk.

Q Did he come to you as he came to Mr. Dutra?

A Mr. Dutra called me on it. He said that Mr. Casey felt his time was being consumed in a clerical function and he needed help. Hesaid he would like to get some one assigned to Mr. Casey and Mr. Dutra, I believe, or Mr. Casey had recommended Arthur Chadwick who had been in the business development depatment as the clerical person assigned to carry out the day to day operations of the entire function, arranging for people to attend the event, and as to the political contribut-

ions when he had to get tickets for that to call the individual offices and ask them for their checks, and to keep a recordkeeping system of exactly who owed what and who contributed what.

Q Did you know that Betty Jaeger kept a record of contributions that she received and the money she paid out?

A I reviewed those records as a matter of fact.

Q There came a time you say that Mr. Chadwick replaced Mr. Casey; is that right?

A Yes.

Q And Mr. Chadwick was down here under Meetings and Events; is that correct?

A Yes.

Q When Mr. Chadwick became involved, what was his function? Tell the jury in your own words what Mr. Chadwick was instructed to do with regards to first the political contributions systems.

A Let me talk about the whole thing. We were attending so many different events. It was becoming a monumental job to see that we had people attending --

Q Can I interrupt you?

Are you speaking of political events, or business, charitable and civic events?

A We ran an average of probably twenty different functions that had to be attended by bank personnel each week

and of those --

Q What did they include?

MR. KATZBERG: We still have the question, what did Mr. Chadwick do?

MR. COHN: I am trying to bring it out in my own way. I will come back to that question.

THE COURT: All right.

A (continuing) -- so we had to make sure that we had proper people attending all of these events. He took care of making sure that if we had a boy scout dinner that the right people attended. He had to keep records on political contributions, who owed what, and he had to buy tickets for political events, call an officer or officers to issue a check or checks to that particular function, obtain the check, forward it to the appropriate officer --

Q Is this what Mr. Chadwick did with respect to these meetings and events?

A Yes.

Q And he handled political events?

A Yes

Q And he made sure that bank personnel attended those events?

A Yes.

Q Got the checks from the officers as saw to it that

they went out to the recipient?

A Yes.

Q And he arranged for people to attend the non-political events?

A That was the biggest part of his job.

Q And he saw to it that the bank was represented by personnel?

A Yes.

Q By the way, was Mr. Casey a contributor to this program?

A Yes.

Q And again I think I have asked you or I believe I asked you, if I put to you all of the questins about voluntariness to foreshorten your testimony, would you give us the same answer?

A Yes.

Q As far as you understood, Mr. Casey always believed it was voluntary?

A Yes.

Q Now, when Mr. Chadwick became involved with the meetings and events and he called for these checks and made these payments, was the system the same for the processing of requests for contributions that you previously told us about?

A Yes.

Q Still coming into the branches?

A Yes.

Q And processed up?

A Yes.

Q And some came in from headquarters and were processed down?

A Yes.

Q Depending upon the amount of the contribution that was requested?

A Yes.

Q By the way, did you know that Mr. Chadwick was also keeping records?

A I instructed Mr. Chadwick to keep the records and I instructed him to keep them indetail and I periodically reviewed his records.

Q Now, there has been -- may I ask Mr. Katzberg to produce something?

THE COURT: Yes.

Q I want to show you the defendant's exhibit MM in evidence and I ask you, sir, whether or not you recognize it?

A Yes.

Q And do you recall Mr. DeGennaro's testimony that he received the article, that he did not know where it came from?

A Yes.

Q Do you know how he got the article?

A This copy he got from Mr. Powell.

Q Do you know how Mr. Powell got the article?

A I sent it to Mr. Travers and Mr. Powell.

Q Did you send copies to anyone else?

A I believe you have another copy that I sent directly to Mr. DeGennaro.

Q Would you look at this, sir, --

MR. COHN: I am sorry, I should have it marked for identification first.

THE CLERK: Two page document marked for identification as defendant Dowd's Exhibit QQQ.

Q Look at this paper, referring now to defendant's exhibit QQQ, and tell me if you recognize that exhibit, sir?

A Yes.

Q What is that exhibit?

A It is the original article that I clipped out of the American Bankers, which I sent to Mr. DeGennaro. I also circulated a copy to Mr. Travers and Mr. Powell and I also circulated one to Mr. Corriss, Mr. Loo and Mr. Vandermark.

(continued next page)

Q How do you know you circulated the copies of this article in the fashion you just told us?

A There is a routing slip I had my secretary put on the back.

Q Is this the original of the exhibit marked MM in evidence?

A Yes.

MR. COHN: I offer the original of the newspaper article in evidence.

MR. PATTISON: May I ask a few questions?

THE COURT: Yes.

VOIR DIRE

BY PATTISON:

Q Mr. Dowd, in the upper left hand corner, there is red ink, red writing. Is that yours?

A Yes -- well, my secretary's.

Q But that was put on at that time?

A Yes.

MR. PATTISON: All right. We do not object.

MR. NAFTALIS: May I see it for a second?

THE COURT: Mark it.

MR. NAFTALIS: We have no objection.

MR. BANNIGAN: No objection.

THE CLERK: Defendant's Exhibit QQQ received in

evidence.

DIRECT EXAMINATION

BY MR. COHN (CONTINUED):

Q Now, you --

THE COURT: You will not be able to finish with him today, will you?

MR. COHN: No, your Honor.

THE COURT: We have sentencing conferences that I am supposed to be at right now.

We will adjourn now.

All right, step down.

MR. COHN: May I just have this marked in evidence?

THE COURT: Yes.

THE COURT: We will recess until 10:00 tomorrow morning. Do not discuss the case with one another or with anyone not on the jury.

(Whereupon, the jury withdrew from the courtroom at 4:45 p.m.)

* * * * *

Have any of you heard, read or seen or had any contact with anyone about this case since you left my Courtroom yesterday?

THE CLERK: Mr. Dowd, please be advised that you are still under oath.

DIRECT EXAMINATION

BY MR. COHN: (Continuing.)

Q As I recall it the last thing that we did yesterday afternoon, before we adjourned, is you identified this article in the American Banker of April 12, 1971. It was marked in evidence. I ask you, sir, with regards to the typewritten material that appears on the second page, do you know how that got there?

A That was prepared by my secretary for routing of copies of the article.

Q To your knowledge, were copies of this article made and routed to these individuals?

A Yes.

Q By your secretary?

A Yes.

Q While you were at the Security National Bank?

A Yes.

MR. COHN: May I show this to the jury?

THE COURT: Yes.

MR. COHN: You will note the exhibit consists of newspaper which is mounted and I specifically invite your attention to the typewritten notation: "Copies routed to George DeGennaro, M. J. Travers, S. B. Powell, S. D. Corriss, W. W. Lowe and R. E. Vandermark."

BY MR. COHN:

Q Now, Mr. Dowd, we have identified George DeGennaro as the lawyer in the Shea firm who was handling the bank's account?

A Yes.

Q I believe we identified Mr. Travers as being the president of the bank?

A Yes.

Q That is the gentleman whose name appears in this slot on the chart?

A Yes.

Q And S. B. Powell, is that the defendant in this case, sir?

A Yes.

Q Frank Powell.

We identified Mr. S. D. Corriss?

A Mr. Corriss is one of the senior lending officers of the bank.

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Q And Mr. Lowe?

A He was the senior lending officer of the bank after Mr. Bradley left.

Q And Mr. Vandermark?

A Mr. Vandermark was responsible for the loan administration for the entire bank.

Q After a copy of this article went to Mr. DeGennaro, did he speak to you or did you speak to him about this article?

A I believe that he called me on the article.

Q And do you recall what the conversation was?

A I don't recall it in specifics.

Q Tell us what you recall about the conversation and let me show you the article for the purpose of refreshing your recollection.

A Yes, this related to discussion that I had been having with Mr. DeGennaro regarding the ability of the Security National Bank to make political contributions and this was to bring to his attention that there were some recent actions on the part of the Government towards banks in the making of contributions to political parties.

Q You brought this to Mr. DeGennaro's attention?

A Yes.

Q He didn't send the article to you to bring it

your attention, did he?

A No, sir.

Q Now Mr. Dowd, let me show you another copy of a different newspaper article and I believe this was produced -- a copy of that was produced by Mr. DeGennaro and I do not recall the exhibit number.

Would you look at that article?

(Document shown to witness.)

MR. COHN: May I ask Mr. Katzberg if he recalls this article having been produced?

MR. KATZBERG: It was produced by Mr. Powell.

MR. COHN: I stand corrected.

Q Let me give you the original exhibit and let the record show that I am now showing to the witness. Defendant's Exhibit FF in evidence.

Do you recall this newspaper article, sir?

A Yes.

Q Did this newspaper article come to your attention?

A Yes.

Q And do you recall whether or not you ever sent a copy of this article to Mr. DeGennaro?

A Yes, I did.

Q And Mr. DeGennaro never sent it to you, did he?

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A No, sir.

Q And will you look at the exhibit and tell the Court and jury why you sent this to Mr. DeGennaro?

A I specifically sent it to him because there was a sentence that I underlined that indicated that we could have a centralized fund to make these political contributions.

Q Did this article deal with a new law that had been signed by President Nixon?

A Yes.

Q And may I ask you this, sir:

After you sent this article to Mr. DeGennaro, did he call you?

A No, sir, he didn't.

MR. KATZBERG: May we have a date, please?

Q Can you tell us from the exhibit a date when you sent this to Mr. DeGennaro?

A February, 1972.

Q What is the date that the article appeared?

A That is the date I sent the article. I put the date on it and I sent a copy of it to Mr. DeGennaro.

Q This dealt with a law signed by President Nixon?

A Yes.

Q And you called Mr. DeGennaro's attention to a new provision in the law which you had underlined in the

article?

A Yes.

Q And you say Mr. DeGennaro did not call you?

A No, sir.

Q What if anything did you then do?

A I wrote a memo to Mr. Clifford.

Q Mr. Dowd, I show you now Defendant's Exhibit LL in evidence and I ask you, sir, could you identify that?

A Yes, this is a copy of a memo that I sent to Mr. Clifford dealing with political loans and political contributions.

Q Did you send this to Mr. Clifford after you received no response from Mr. DeGennaro?

A Yes.

MR. COHN: If your Honor pleases, with your permission, may I read this to the jury? It is a short memorandum.

THE COURT: Yes.

MR. COHN: Ladies and gentlemen, this is a letter or memorandum that Mr. Dowd sent to Mr. Clifford. On the top it has "Security National Bank, Patrick J. Clifford, Chairman, David J. Dowd, Senior Vice President" and it is dated "February 22, 1972.

"Political loans" appear and are underlined.

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I am now reading to you:

"As you know President Nixon signed a law which goes into effect April 7th and permits bona fide loans to political candidates and organizations for any purpose, political or non-political. There is a further provision in the law that permits a corporation to establish and administer a separate contributory fund for any political purpose as long as all the contributions are voluntary and not a condition of employment. What this would permit of course is for us to centralize our present system under which individual officers make their own contributions. I am sending a copy of this memo to George DeGennaro for his comments, but if possible and you have no objection, I would like to centralize this from an administrative standpoint for better control" and there is a line for signature "David J. Dowd" and "CC" indicating copies to George DeGennaro.

BY MR. COHN:

Q Now Mr. Dowd, when you wrote the words in this letter, "I would like to centralize this from an administrative standpoint for better control," what did you have in mind? What did you mean?

A We were having an awful lot of work in handling

the program as Mr. DeGennaro had requested a year earlier. In that we were asking the individual officers to write their own checks. It was becoming a real burden to Mr. Chadwick and to Mr. Casey and they had been asking me to find a way, if we could do it, more simply. When this appeared I felt now the law permitted us -- it would permit us to have a centralized fund and therefore with counsel's concurrence I would like to switch it back so we had just one fund again and all the checks would come into that one fund and we would write checks against that one fund.

(Continued next page.)

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Q Let me take you back for a minute to your earlier testimony yesterday about your conversation with Mr. De Gennaro in December of 1970. That was approximately two years before this letter?

A Yes, a year and a half.

Q That conversation was the one where Mr. De Gennaro told you he wanted you to have the individual offices write their own checks to the particular political organization?

A Yes.

Q Was that the reason why the Chadwick system was set up?

A YEs.

Q Now, you have been operating with the Chadwick system for approximately two years; is that correct?

A Yes.

Q And now you sent this letter to Mr. Clifford asking his permission for you to make a change and go back to the centralized system?

A Subject to Mr. De Gennaro's concurrance.

Q Approval. Let me ask you this, sir:

Had there been a centralized system at the bank before the Chadwick system?

A Yes.

Q What was that?

A The directors contributed to the Pauline Ready account.

Q Was there any other centralized system?

A When we substituted the officers for the directors we had the Betty Yager fund.

Q And the Betty Yager fund, that was a fund where the officers sent their checks into Betty Yager and she wrote the checks out to the donees or the beneficiaries?

A Yes.

MR. KATZ: Counsel was leading.

THE COURT: Yes, they have been very tolerant.

MR. COHN: I appreciate the tolerance of Mr. Katzberg and Mr. Paterson.

THE COURT: I did not want anyone to think that I did not recognize it.

Q Let me ask you this. What was it you had in mind with respect to centralizing this for an administrative point of view?

A Just that we could handle it more easier with less clerical and administrative work if we had one fund with all the monies going into one fund and all the checks written from that one fund.

Q And after you sent a copy of this letter to Mr. De Gennaro, did he call you or contact you in any way?

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A Yes.

Q Tell the Court and jury -- withdrawn.

Give us the approximate time when he contacted you.

A Probably within a few days, a week after this. About the end of February of '72.

Q Tell the court and the jury to the best of your recollection what that telephone conversation was with Mr. De Gennaro. What did he say to you and what did you say to him?

A He said he had received a copy of my memo and he discussed again the matter of a centralized fund with his associates in the firm and that they still were of the opinion that we should continue the program with the officers individually making their checks out to buy the tickets.

Q Did you tell Mr. De Gennaro your reasons for wanting to change it back to the centralized system?

A I told him it was becoming a nightmare to handle the program this way and involved an awful lot of work and we'd really appreciate being able to have it as a centralized fund.

Q What did Mr. De Gennaro say to that?

A He said he could appreciate the problems we were having, but if we wanted to comply with the law in the fullest extent that we should follow his advice to continue having the officers issue their checks individually.

Q And after Mr. De Gennaro gave you this advice, did you ignore it?

A No, sir.

Q Did you then change from the officers' individual system to the centralized fund that you wanted?

A We continued doing it in the way Mr. De Gennaro wanted it.

Q Even though you didn't like that system?

A It was a lot more work and it cost the bank money, but if that is the way the lawyers wanted us to do it, that is the way we did it.

Q Now, Mr. Dowd, let me show you another article. Do you recognize this paper, sir? (Document shown to witness.)

A Yes.

Q Have you ever seen that paper?

A Yes.

Q When for the first time did you see that paper?

A In August of 1972.

Q Will you tell the Court and jury the circumstances under which this paper came into your possession and you saw it?

A Mr. Johnson, the president, had come back from a trip to Texas, and he had read the local paper down there and the paper had an article that was entitled "Many Crippling

Blows Dealt Business Political Funds" and it raised a new question on this matter of contributions fund in terms of whether banks were government contractors and whether they were prohibited from making contributions under another section of the law, and Mr. Johnson gave me a copy of the article, and in reading it I became concerned as to why I had not heard from our law firm on this area of the law, so that I called Mr. De gennaro up but I do not believe he was available. Instead, I sent a copy of the article to Bill Hagen, who was Mr. De Gennaro's associate at the firm, with the idea that he would get back to me and discuss it.

MR. COHN: I ask that this paper be marked for identification.

THE CLERK: One-page document marked for identification as defendants' Exhibit RRR.

MR. KATZBERG: I believe that document was part of a series of documents already marked for identification.

MR. COHN: Mr. Katzberg may be correct. Just give me a second.

MR. KATZBERG: Mr. Ryan must have it.

MR. COHN: So many exhibits I just can't keep track any more. Please forgive me.

(Pause.)

Since it has been marked for identification, may I now mark it into evidence?

THE COURT: Any objection?

MR. PATERSON: May I see it, please?

(Shown to counsel.)

MR. PATERSON: No objection.

MR. BANNIGAN: No objection from the bank.

THE COURT: Mark it.

THE CLERK: Defendant's Exhibit RRR received in evidence.

Q Mr. Dowd, let me clarify a few points.

What is the date of this article, sir?

A August 12, 1972.

Q By August 12th of 1972, had you already determined, Mr. Dowd, that you were going to resign from the bank?

A Yes, I did.

Q And you subsequently resigned?

A Yes.

Q You sent a letter of resignation in when?

A August 31st.

Q What was the last date you were with the bank?

A September 22nd.

Q Notwithstanding the fact that you had already determined to resign from the bank, you sent this article to

your lawyers in any event?

A Yes.

MR. COHN: Let the record show that the paper that has been marked as Defendant's Exhibit RRR in evidence is a copy of a paper that has been marked -- may I ask the clerk to read this to me? -- Defendant's Exhibit TT in evidence?

Q Now, this article deals, does it not, with legislation and laws involving contractors and the making of political contributions by government contractors; is that correct?

A Yes.

Q In August of 1972, was the Security National Bank a government contractor?

A Yes, in many different areas.

Q Tell the Court and jury in what areas the Security National Bank was functioning as a contractor for the Federal Government.

A The primary role that we had as a contractor was in the sale of Government E bonds. We were given an inventory of Government bonds by the Government and we held them for sale to the public. We were a depository for the United States Government and they deposited their local payments into a bank account.

Q Did the Security National Bank also function as a

depository for employers who withheld -- what do you call it -- who withheld taxes from employees?

A Yes.

Q For how long a period of time prior to August of 1972, to your knowledge, had the Security National Bank been functioning as such a government contractor?

A Probably from the first month it was organized back in 1924.

Q At least during the period from 1966, when you went to work for the bank, was it functioning as a government contractor?

A Yes.

Q And there has been testimony here that Mr. Shea's law firm came to represent this bank in 1967?

A Yes, sir.

Q At any time from 1967 to 1972, did anyone of the lawyers in Mr. Shea's firm ever call to your attention that there was a separate law relating to political contributions by government contractors?

A No, sir.

Q And you sent this to Mr. Shea's firm?

A Yes, sir.

Q Did they send it to you?

A No, sir.

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Q And you sent this to Mr. Hagen?

A Yes.

Q Who was Mr. Hagen in August of 1972?

A He was Mr. De Gennaro's assistant. He was one of -- the second lawyer on the Security National Bank account.

Q Now, after you called this to Mr. Hagen's attention, what happened?

A He called me by telephone.

Q Did he acknowledge to you that he received the article?

A Yes, sir.

Q What was the conversation?

A He said that he had read the article and I asked him why he had not been advised that this might be a potential problem and he said he really did not know. He wasn't familiar with the law. I said I was very much conerned. I said it looks to me as if we might have a legal problem here and I said I am concerned and not only with this area, but in terms of the advice they had given us on political loans and political contributions and I said I would appreciate him looking into this matter and getting back to us in terms of whether we were complying or whether we had a problem in that area or not.

Q And did Mr. Hagen get back to you?

A Yes, he did.

Q And I show you now Defendant's Exhibit VV in evidence. I ask you, sir, if you recognize this exhibit?

A Yes, sir.

Q What is that, sir?

A This is a letter from Bill Hagen to myself dated August 18, 1972.

Q Did Mr. Hagen comply with your request to explain to you what the law was with respect to the bank's function as a government contractor and making political contributions?

A Mr. Hagen did just what Mr. De Gennaro said he was going to do if we requested an opinion as to political contributions in 1967.

Q What did he do?

A He simply gave me a statement of the law on each of the sections that applied to banks on political contributions on relation to political contributions on government contractors.

Q Are these the copies of the law that were annexed to Mr. Hagen's letter?

A Yes, sir.

Q Did he ever explain it to you, sir?

A No, sir.

Q Did he leave it up to you to figure out what the law was?

MR. KATZBURG: Objection.

THE COURT: It follows. You read what he sent you?

THE WITNESS: Yes.

Q But he never took the time to send you a letter to explain to you what all these different sections of the law related to?

THE COURT: That is what he said.

MR. KATZBERG: Objection.

MR. COHN: I don't believe we have the right to lead this letter, but may I at least show the jury the nature of the enclosures? I won't read it to them.

THE COURT: You cannot read it to them.

MR. COHN: I merely want to show this is the letter from Mr. Hagen and this is what was enclosed, copies of statutes, all of which are printed as you can see.

(Document shown to jury.)

Q Now, Mr. Hagen's letter to you is dated August 18, 1972. It is in evidence; you can look at it. Is that correct?

A Yes.

Q Now, let me take you to the next stop, Mr. Dowd: What if anything -- withdrawn.

On August 21, 1972, you had already determined to

leave the bank; is that correct?

A I had actually accepted the job as president of the Nassau Trust Company.

Q Did you know who was going to take over the responsibility for the political contributions fund that you had been conducting prior to your leaving the bank?

A Yes, Mr. Steffan.

Q You knew that at that time?

A Yes.

Q What if anything did you do after you received Mr. Hagen's letter and the attached copies of the laws under his letter dated August 18, 1972?

A I was disappointed in Mr. Hagen's letter --

MR. KATZBERG: Objection.

THE COURT: Sustained.

Q Just tell us what you did.

A I wrote a memo to Mr. Steffan.

Q Would you look at this memorandum, please?

(Document shown to witness.)

Do you recognize it?

A Yes, sir.

Q And is this a memorandum that you sent to Mr. Steffan.

A Yes.

MR. COHN: May I have this marked for identification, your Honor?

THE CLERK: One page document marked for identification as Defendant's Exhibit SSS.

MR. COHN: May I substitute another copy? There is apparently some writing on here which I cannot account for. I have a clean copy. May I therefore ask the Clerk to remark it?

MR. KATZBERG: We have in our possession the original.

MR. COHN: I have no objection to that.

THE COURT: Mark the original.

MR. COHN: May I enquire of Mr. Katzberg whether this document is a document turned over to him by the bank as it appears to have some writing on it, your Honor?

Let me put a question to the witness.

(continued next page)

Q Mr. Dowd, let me show you this yellow paper that has been marked Defendant's Exhibit SSS for identification. Do you recognize that document, sir?

A Yes.

Q At the time that you sent this document to Mr. Steffan, was this handwriting material on the document?

A No, sir, that's Mr. Steffan's writing.

Q Do you know how that writing got on the document?

A No, sir.

Q It was not part of the document when you sent it to Mr. Steffan?

A No, sir.

Q Under those circumstances, take a look at this paper. Is this a copy of that which you sent to Mr. Steffan without the handwriting?

A Yes.

MR. COHN: In view of the fact that the witness cannot identify the handwriting of explain its appearance on the document, I would offer a clean copy.

MR. KATZBERG: We must object. The original is available. He recognizes the handwriting as that of Mr. Stephan.

MR. BRANNIGAN: I would request that this be done at side bar.

(Side bar.)

MR. COHN: I will show you the two copies and you tell us which one you want. He recognizes the handwriting, he doesn't know when it went on or how it came to go on or who was responsible for it. This was the last he ever saw of this copy (referring to the white copy). I assume the writing took place sometime after it went to Mr. Steffan.

MR. HAFTALIS: That is hearsay.

MR. PATERSON: It is part of the whole.

MR. BANNIGAN: It is a double hearsay.

MR. KATZBERG: He recognizes it as the handwriting of Mr. Steffan.

MR. PATERSON: It was clearly written on the very memo --

MR. BANNIGAN: When?

THE COURT: Sometime after it was sent. PJC. That is Patrick J. Clifford?

MR. PATERSON: And that's a quote.

THE COURT: You're saying that Steffan put down "TJC"?

MR. HAFTALIS: That is a hearsay statement that Mr. Steffan added. We do not have Mr. Steffan here. If they wanted to call Mr. Steffan he can testify to any conversation that he had with Mr. Clifford or Mr. Dowd.

If it was something that was put on after the fact. It is self-serving. They have refused to put this man stand Steffan on the stand, although they have a deal with him to give him immunity.

MR. COHN: I am not offering the document with this on it. I am only offering it as to what Mr. Dowd said.

THE COURT: I will allow the white copy to go in and on cross-examination you can establish that. I will allow the clear copy at this time.

(The following took place in open court.)

THE CLERK: One-page document marked for identification as Defendant's Exhibit TTT.

MR. COHN: At this time I would offer the document into evidence.

(Document shown to Counsel.)

MR. KATZBERG: One question on voir dire?

THE COURT: Yes.

VOIR DIRE EXAMINATION BY

MR. KATZBERG:

Q With respect to TTT, is that signed by you?

A This is Mr. Clifford's copy.

Q Does your signature appear?

A No, sir.

MR. KATZBERG: I suggest we offer a copy with

his signature on it.

MR. COHN: It would be the one with the writing.

THE COURT: The writing will not be part of the exhibit. We can blot it out. The Court's ruling is that this memo is admissible. The handwriting on there is not admitted at this time, subject to a further ruling of the Court, if necessary.

Q Mr. Dowd, you identified this as a copy of a memorandum -- I assume it is in evidence?

THE COURT: Yes.

Q -- that you sent to Mr. Steffan; is that correct?

A Yes.

Q What is the date of that?

A August 21st, 1972.

MR. COHN: If your Honor pleases, may I read this to the jury?

THE COURT: Yes.

MR. COHN: Again, ladies and gentlemen of the jury, this has been identified as a copy of the letter that was sent from David J. Dowd to Steven Joseph Steffan dated August 21, 1972 and it says: "Political contributions" which is underlined, and in the center of the page, "Confidential," which is also underlined.

Let me read it to you:

"Attached is a letter from Bill Hagen together

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with copies of the sections of the Federal law relating to political contributions by national banks. The state law is more stringent than this. Additionally, our counsel has not reviewed the question of whether we are a government contractor and thus under section 611, because of the ambiguity of the law in the past and the fact that legal penalties are severe, when with Pat's complete acquiescence avoided having him or Mr. Travis involved in the approval or knowledge of any contributions. Now that they're again involved in the approval function and coupled with the implication of section 611, I wonder if it might not be appropriate to ask counsel to again review the matter."

There is a line for the signature "David J. Dowd."

(continued next page)